

EXHIBIT D

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NICHOLAS MAVIS,

Plaintiff,

vs. CIVIL ACTION NO.: 3:13-cv-30087-KPN

DIVERSIFIED CONSULTANTS, INC.;
and DOES 1-10, inclusive,

Defendants.

JAMIE DAVIS,

Plaintiff,

vs. CIVIL ACTION NO.: 1:13-cv-10875-FDS

DIVERSIFIED CONSULTANTS, INC.;
and DOES 1-10, inclusive,

Defendants.

Deposition of

MAVIS-ANN PYE

Taken on behalf of the Plaintiffs
Pursuant to Amended Notices of Taking Deposition

DATE: Friday, February 28, 2014

TIME: 12:15 p.m. - 3:24 p.m.

PLACE: Riley Reporting & Associates, Inc.
1660 Prudential Drive, Suite 210
Jacksonville, Florida 32207

Examination of the witness taken before:

Tanya L. McCranie
Registered Merit Reporter

RILEY REPORTING & ASSOCIATES, INC.

1660 Prudential Drive, Suite 210

Jacksonville, Florida 32207

(904) 358-1615 info@rilevreporting.com

A P P E A R A N C E S		Page 2	Page 4
1			
2			MAVIS-ANN PYE,
3			2 having been produced and first duly sworn as a witness on
4	SERGEI LEMBERG, Esquire,		3 behalf of the plaintiffs, and after responding "I do" to
5	Lemberg & Associates, L.L.C.,		4 the oath, testified as follows:
6	1100 Summer Street		5 DIRECT EXAMINATION
7	Stamford, Connecticut 06905		6 BY MR. LEMBERG:
8	(203) 653-2250		7 Q Good morning, Ms. Pye.
	slembberg@lembertglaw.com		8 A Good morning.
9	appearing on behalf of the plaintiffs.		9 Q Would you please state your full name for the
10			10 record.
11			11 A Mavis-Ann Pye.
12	JOHN J. O'CONNOR, Esquire (telephonically),		12 Q My name is Sergei Lemberg. I represent two
13	Peabody & Arnold, LLP,		13 plaintiffs in two cases. The first one is Nicholas Mavis
14	Federal Reserve Plaza		14 and the second one is Jamie Davis, both of which are
15	600 Atlantic Avenue		15 pending in the United States District Court, Federal
16	Boston, Massachusetts 32202		16 District Court for the District of Massachusetts.
17	617-951-2077		17 Have you ever been deposed before?
18	joconnor@peabodyarnold.com.		18 A Yes, I have.
19	appearing via telephone on behalf of the		19 Q How many times?
20	defendant.		20 A I would say at least seven.
21	---		21 Q How many of the seven were personal and how
22			22 many of the seven were on behalf of Diversified
23			23 Consultants?
24			24 A All of them on behalf of Diversified
25			25 Consultants.
1		Page 3	Page 5
2			
3	I N D E X		
4	Witness	Page	
5	MAVIS-ANN PYE		1 Q When were -- do you have transcripts of these
6	Direct Examination	4	2 depositions available?
7	---		3 A I'm sure I can get them.
8			4 Q If you would, please, get them, provide them to
9	E X H I B I T S		5 Mr. O'Connor, and then ask him for him to provide them to
10	For Identification	Page	6 me, I would appreciate it.
11	Plaintiffs' Exhibit No. 1 (Deposition notice Nicholas Mavis)	7	7 MR. LEMBERG: Jack, is that okay?
12	Plaintiffs' Exhibit No. 2 (Deposition notice Jamie Davis)	11	8 MR. O'CONNOR: Yeah, we're not making any
13	Plaintiffs' Exhibit No. 3 (DCI printout "Pre-collection Services")	20	9 representations on the record about discovery
14	Plaintiffs' Exhibit No. 4 (Account history Rosalee Pagan)	23	issues, Sergei. I'll be happy talk to you about
15	Plaintiffs' Exhibit No. 5 (LiveVox log (857) 312-8596)	30	10 that stuff off the record after we're done.
16	Plaintiffs' Exhibit No. 6 (Account history Nicholas Mavis)	42	11 MR. LEMBERG: Well, the witness testified that
17	Plaintiffs' Exhibit No. 7 (AT&T wireless statement Nicholas Mavis)	44	12 she would be happy to get them, and so I'm making
18	Plaintiffs' Exhibit No. 8 (Dialer history (413) 777-5348)	49	13 that request.
19	Plaintiffs' Exhibit No. 9 (Article written by Joshua Fluegel)	68	14 MR. O'CONNOR: Okay. I understand you're
20	Plaintiffs' Exhibit No. 10 (Defendant's Supplemental Responses re Davis)	78	15 making that request, and I'll be happy to discuss it
21	Plaintiffs' Exhibit No. 11 (Defendant's Answers Nicholas Mavis)	94	16 with you further.
22	Plaintiffs' Exhibit No. 12 (DCI printout "Technology")	107	17 Sergei, can I -- I'm sorry to interrupt, but
23	---		18 can I just ask you a question about procedure?
24			19 MR. LEMBERG: Yes.
25			20 MR. O'CONNOR: Are we doing Mavis now or Davis
			21 now or are we doing both together?
			22 MR. LEMBERG: Both together.
			23 MR. O'CONNOR: Okay.
			24 Is that okay with the court reporter?

	Page 6		Page 8
1	THE REPORTER: Yes, that's fine.	1	Q And are you the person to -- designated to
2	MR. O'CONNOR: Okay. Thank you.	2	testify regarding defendant's policies, procedures and
3	BY MR. LEMBERG:	3	practices regarding obtaining and recording consent from
4	Q Let me, then, go very briefly over the ground	4	consumers to receive automated calls to wireless numbers,
5	rules of a deposition. I'm going to ask you some	5	the use of telephones by defendant's collectors and
6	questions, you're going to provide some answers. I don't	6	operators?
7	want you to guess. I don't want you to give me any	7	A Yes.
8	answer that you don't know fully to be absolutely true.	8	Q And are you, then, the person designated to
9	If I would like -- if I decide that I want you to give me	9	testify on topic number 3?
10	an estimate, I'll ask you for an estimate. There's no	10	A Yes.
11	head shaking, there's no humming, so all answers have to	11	Q I'm sorry, topic C.
12	be enunciated so the reporter can take them down.	12	Are you the person designated to testify on
13	Now, are you on any medications that might	13	topic D?
14	affect your testimony?	14	A Yes.
15	A No.	15	Q Are you the person designated to testify on
16	Q Why are you here today?	16	topic E?
17	A To be deposed as the corporate representative	17	A Yes.
18	for Diversified Consultants.	18	Q And are you the person designated to testify on
19	Q And you have taken an oath today, correct?	19	topics F and G?
20	A Yes.	20	A Yes.
21	Q And what does that oath mean to you?	21	Q The notice further calls on the defendant to
22	A To tell the truth.	22	produce documents at the bottom. The topics are listed A
23	Q And do you know what would happen if you didn't	23	through D.
24	tell the truth?	24	Would you please confirm to me that all logs,
25	MR. O'CONNOR: Objection.	25	memoranda of communications and/or collection notes
	Page 7		Page 9
1	Don't answer that.	1	reflecting calls placed by defendant or on defendant's
2	MR. LEMBERG: I'm going to mark as Plaintiffs'	2	behalf to telephone number (413) 777-5348 have been
3	1 an amended notice of deposition in the Mavis	3	produced.
4	case.	4	A Yes.
5	(Plaintiffs' Exhibit No. 1 marked for identification.)	5	Q And that all copies of all dialer reports
6	BY MR. LEMBERG:	6	and/or dialer history reflecting all calls placed to
7	Q Please take a look at this document. Have you	7	telephone number (413) 777-5348, including abandoned
8	seen -- tell me when you're done.	8	calls --
9	A I'm done.	9	A Yes.
10	Q Have you ever seen this document before?	10	Q -- have been produced?
11	A Yes, I have.	11	A Yes.
12	Q When was the first time you saw this	12	Q That all database and -- and/or system
13	document?	13	reference manuals for defendant's dialing system have
14	A I do not recall the exact date.	14	been produced?
15	Q But you have seen it before, correct?	15	A All that we have.
16	A It looks very familiar.	16	Q Are there any manuals and/or system reference
17	Q Now, the document called upon the defendant to	17	manuals that you do not -- do not have that you are aware
18	produce a person under Federal Rule 30(b)(6) to testify	18	of?
19	concerning the following matters, and they're listed A	19	A No.
20	through G, and I'm going to go through them one by one.	20	Q So all that you have has been produced?
21	Any and all calls placed by defendant or on	21	A Yes.
22	defendant's behalf to telephone number (413) 777-5348.	22	Q And topic D, all campaign definition reports or
23	Are you the person designated to testify regarding that	23	similar documents for any calls placed to telephone
24	topic?	24	number (413) 777-5348.
25	A Yes.	25	A Yes.

	Page 10		Page 12
1 Q The campaign definition reports have been		1 the bottom calling on defendant to produce documents.	
2 produced?		2 The demands are numbered A through D. Have all of these	
3 A I'm sorry, definition reports, what's -- I		3 documents been produced except the campaign definition	
4 don't know what that is. What -- what do you mean by		4 reports or similar documents that you don't know anything	
5 "campaign definition reports"?		5 about?	
6 Q You don't know what a campaign definition		6 A To my knowledge, yes.	
7 report is?		7 Q When you qualify "to my knowledge," what does	
8 A I'm not familiar with that term, no.		8 that mean to you?	
9 Q Are you familiar with the operation of an		9 A I provided the information to the attorney and	
10 automatic dialing system or a dialing system?		10 I'm sure he produced it to you.	
11 A Yes, I am.		11 Q Now, let me just understand. What is your	
12 Q But you're not familiar with the words		12 position at Diversified Consultants?	
13 "campaign definition reports"?		13 A I'm the vice president of compliance.	
14 A No.		14 Q How long have you been there?	
15 Q So you don't know what these are?		15 A I have been with Diversified since 2005.	
16 A I would be guessing.		16 Q Prior to that, what jobs did you hold for a	
17 Q Can you give me an answer as best as you can?		17 period longer than a year?	
18 A I am not 100 percent sure what those are.		18 A For Diversified?	
19 Q Would you please tell me what you did to		19 Q For anybody.	
20 prepare for this deposition?		20 A I was a compliance manager for Diversified	
21 A I reviewed the calls, the account history, the		21 Consultants.	
22 information that we've provided and spoke with my		22 Q For how long?	
23 attorney.		23 A Three years.	
24 Q Did you do anything else to prepare for this		24 Q And before that?	
25 deposition?		25 A I was the quality -- I was a quality	
	Page 11		Page 13
1 A I don't think so.		1 associate.	
2 Q Did you review any manuals with respect to		2 Q At Diversified Consultants?	
3 the system the defendant uses to dial -- to make outbound		3 A Yes.	
4 telephone calls?		4 Q What's a -- what does a quality associate do?	
5 A No.		5 A They monitor calls, assist with reporting, risk	
6 Q You did not review that manual because you have		6 management.	
7 seen it before and used it in your daily routines and are		7 Q Prior -- so you've worked for Diversified	
8 therefore familiar with -- with how the system works?		8 Consultants now for 15 years more or less?	
9 A I am familiar --		9 A No, since 2005.	
10 MR. O'CONNOR: Object to the form.		10 Q Where were you working before that?	
11 MR. LEMBERG: Okay. I'd like to show the		11 A I was a stay-at-home mother for several	
12 witness what will be marked as Plaintiffs' 2, the		12 years.	
13 second amended notice of deposition in the Davis		13 Q And what other jobs have you held for longer	
14 case.		14 than a year?	
15 (Plaintiffs' Exhibit No. 2 marked for identification.)		15 A I've worked for Citibank in their collections	
16 BY MR. LEMBERG:		16 department for --	
17 Q Let's just see if we can get through this piece		17 Q What was your job there?	
18 quickly. The second -- the notice of deposition in the		18 A Collections. For two years, three years,	
19 Davis case has a number of topics set out, A through G,		19 something like that. And prior to that, various customer	
20 just like the prior notice. Do you see that?		20 service jobs.	
21 A I do.		21 Q What is the highest level of education you	
22 Q And are you the person designated by the		22 obtained?	
23 defendant to testify on all of these topics A through G?		23 A Some college.	
24 A Yes.		24 Q What does "some college" mean?	
25 Q The notice likewise has a document demand at		25 A I'm over halfway through my degree.	

<p style="text-align: right;">Page 14</p> <p>1 Q And what degree do you anticipate obtaining?</p> <p>2 A Business management.</p> <p>3 Q So far, what classes have you taken in pursuit</p> <p>4 of that degree?</p> <p>5 A I'm not currently enrolled, but when I was</p> <p>6 enrolled, I was taking -- it's -- I've taken everything</p> <p>7 from language to math to human resource classes.</p> <p>8 Q Any classes in computer science?</p> <p>9 A No.</p> <p>10 Q Are you what one might call a geek, a person</p> <p>11 who is not formally educated in computer science, but is</p> <p>12 otherwise extremely adept at programming and using</p> <p>13 computer interfaces without having had any formal</p> <p>14 education?</p> <p>15 A I am very familiar with the computer. I'm not</p> <p>16 saying I'm very adept, but I'm very familiar with the</p> <p>17 workings of a computer.</p> <p>18 Q Have you ever taken any class, any formal</p> <p>19 classes on the operation of automatic dialing systems?</p> <p>20 A No.</p> <p>21 Q Have you attended any internal seminars in the</p> <p>22 operation of automatic dialing systems?</p> <p>23 A No.</p> <p>24 Q Have you ever reviewed any books on the</p> <p>25 operation of automatic dialing telephone systems?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q Is it your daily job responsibility to manage</p> <p>2 the LiveVox system?</p> <p>3 A No.</p> <p>4 Q Is it your daily job responsibility to oversee</p> <p>5 the operation of the LiveVox system?</p> <p>6 A No.</p> <p>7 Q Is it your daily job responsibility to</p> <p>8 troubleshoot the LiveVox system if it doesn't work?</p> <p>9 A No.</p> <p>10 Q Do you agree with me that so far as you</p> <p>11 understand it, in each of these cases, there are</p> <p>12 basically two big issues, and the first being whether the</p> <p>13 defendant dialed the plaintiffs' numbers using an</p> <p>14 automatic dialing system, and the second issue being</p> <p>15 whether the defendant -- the plaintiffs consented to the</p> <p>16 use of that system by providing their number?</p> <p>17 MR. O'CONNOR: Objection to the form.</p> <p>18 THE WITNESS: I don't know what he -- he said.</p> <p>19 What did you say, Jack?</p> <p>20 MR. O'CONNOR: I just objected to the form of</p> <p>21 the question.</p> <p>22 BY MR. LEMBERG:</p> <p>23 Q You can go ahead and answer.</p> <p>24 A Yes, those are the two issues in these cases,</p> <p>25 the two major issues.</p>
<p style="text-align: right;">Page 15</p> <p>1 A I've reviewed the -- reviewed the LiveVox</p> <p>2 manual.</p> <p>3 Q Other than the LiveVox manual, have you ever</p> <p>4 reviewed anything?</p> <p>5 A No.</p> <p>6 Q Have you ever interacted with somebody at</p> <p>7 LiveVox?</p> <p>8 A Yes.</p> <p>9 Q Who do you interact with there?</p> <p>10 A There's numerous people that I interact with,</p> <p>11 but usually it's their legal counsel.</p> <p>12 Q What is the name of the legal counsel?</p> <p>13 A I believe it's Mark Malla (phonetic).</p> <p>14 Q Other than Mark, do you know the names of</p> <p>15 anybody that you interact with with LiveVox?</p> <p>16 A Michael, but I'm not sure of his last name.</p> <p>17 Q When was the last time you interacted with</p> <p>18 Michael in any way?</p> <p>19 A Last week.</p> <p>20 Q So tell me, unless I am missing something,</p> <p>21 where does your knowledge regarding the dialing system</p> <p>22 that Diversified uses comes from -- come from?</p> <p>23 A Playing with it myself and learning it, and</p> <p>24 looking at the manuals, and asking other people for</p> <p>25 assistance who have done the same thing.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q So Diversified Consultants does not deny that</p> <p>2 it called both Mavis and Davis to collect a debt,</p> <p>3 correct?</p> <p>4 MR. O'CONNOR: Objection to the form.</p> <p>5 THE WITNESS: Correct.</p> <p>6 MR. LEMBERG: What's the basis of the</p> <p>7 objection? Okay, compound. Let me rephrase.</p> <p>8 MR. O'CONNOR: Form.</p> <p>9 BY MR. LEMBERG:</p> <p>10 Q Does Diversified Consultants deny that it</p> <p>11 called the telephone number assigned to Mr. Davis?</p> <p>12 A No.</p> <p>13 MR. O'CONNOR: Objection to the form.</p> <p>14 MR. LEMBERG: What's the basis of the</p> <p>15 objection?</p> <p>16 MR. O'CONNOR: It's improper in form.</p> <p>17 MR. LEMBERG: What -- why is it improper?</p> <p>18 MR. O'CONNOR: You have to work that out for</p> <p>19 yourself, Sergei.</p> <p>20 MR. LEMBERG: Well, I'm entitled to ask you for</p> <p>21 the basis of the objection.</p> <p>22 MR. O'CONNOR: I gave it to you.</p> <p>23 MR. LEMBERG: You gave -- you repeated what you</p> <p>24 said. I'm interested in -- what is wrong with the</p> <p>25 question, Jack?</p>

<p style="text-align: right;">Page 18</p> <p>1 MR. O'CONNOR: The question's improper in form. 2 It assumes facts as to which there's no evidence. 3 MR. LEMBERG: Okay. 4 BY MR. LEMBERG: 5 Q Does Diversified Consultants deny that it 6 called Mr. Mavis on his cell phone number? 7 MR. O'CONNOR: Objection to the form. 8 THE WITNESS: No. 9 BY MR. LEMBERG: 10 Q But Mr. -- but Diversified Consultants denies 11 that it uses an ATSD [sic] to call those numbers, 12 correct? 13 A We do not have an ATDS. 14 Q Fine. 15 With respect to the second big topic, did 16 Diversified Consultants have the consent of Mr. Davis to 17 call his cell phone number? 18 A I don't remember off the top of my head. 19 Q And did Diversified Consultants have the 20 consent of Mr. Mavis to call his cell phone number that 21 it called using the system that it has? 22 A I don't remember off the top of my head. 23 THE WITNESS: Can we take a five-minute -- just 24 a couple-second breather? 25 MR. O'CONNOR: Sure.</p>	<p>1 A Roughly 400. It might be high. 2 (Plaintiffs' Exhibit No. 3 marked for identification.) 3 MR. LEMBERG: I've marked as Plaintiffs' 3 a 4 printout from what I believe to be Diversified 5 Consultants' Web site. The URL is 6 dcicollect.com/services/dci-pre-collection-services. 7 html. And I'm going to show that printout to the 8 witness. 9 BY MR. LEMBERG: 10 Q Please review this document and tell me when 11 you're ready to answer questions. 12 A I'm ready. 13 Q Does this document appear to be to you a 14 printout from Diversified Consultants' Web site? 15 A It looks like it should be, yes. 16 Q Is it or it is not? 17 A It appears to be, yes. 18 Q The logo in the upper left-hand corner of page 19 1, is that the logo of Diversified Consultants? 20 A Yes, it is. 21 Q And is the name "Diversified Consultants, Inc., 22 Dedicated to Risk Management" the name and motto of the 23 company? 24 A Yes, it is. 25 Q Does this to you appear to be a page about the</p>
<p style="text-align: right;">Page 19</p> <p>1 MR. LEMBERG: Sure. 2 (Brief recess.) 3 BY MR. LEMBERG: 4 Q Since we touched on the issue of a dialer, let 5 me ask you the following questions: Does Diversified 6 Consultants have a Web site? 7 A Yes, we do. 8 Q What is the name of that Web site? 9 A The main one is www.dcicollect.com. 10 Q And that's the Web site for DCI Collect, which 11 is Diversified Consultant's, Inc., correct? 12 A Yes, it is. 13 Q How many call centers does Diversified 14 Consultants, Inc., have? 15 A Two. 16 Q Where are they located? 17 A Jacksonville, Florida, and Tualatin, Oregon. 18 THE REPORTER: I'm sorry. Jacksonville, 19 Florida, and? 20 THE WITNESS: Tualatin, Oregon. 21 BY MR. LEMBERG: 22 Q And how many people does Diversified 23 Consultants employ in total? 24 A I can give you an estimate. 25 Q Go ahead.</p>	<p>1 pre-collection services that the company provides? 2 A Yes, it does. 3 Q And if you flip the page over, the first full 4 sentence of the second page reads: "With the flexibility 5 available to us via our LiveVox Predictive Dialer, the 6 exceptional functionality of Latitude Software's exciting 7 Latitude Collection System, the high quality training and 8 our motivated employees; DCI possess the resources to 9 take on any -- any project regardless of the complexity 10 or size." Do you see that? 11 A Yes, I do. 12 Q What do the words "our LiveVox predictive 13 dialer" mean to you? 14 A That it is the phone system that we use to make 15 the calls. 16 Q And that's the only phone system you use to 17 make the calls, correct? 18 A Unless it's down, yes. 19 Q Where is that system located? 20 A It's a cloud function. 21 Q What do those words mean? 22 A Meaning that it's off-site, like the cloud is 23 kind of like the Internet. I'm not exactly sure on the 24 terminology used for that. 25 Q And what is LiveVox?</p>

<p style="text-align: right;">Page 22</p> <p>1 A LiveVox is a company that runs the cloud.</p> <p>2 Q And your firm, Diversified Consultants, uses a</p> <p>3 LiveVox predictive dialer to make outbound phone calls,</p> <p>4 correct?</p> <p>5 A We use a predictive dialer to make phone calls,</p> <p>6 yes.</p> <p>7 Q Okay. What do the words "predictive dialer"</p> <p>8 mean to you?</p> <p>9 A It means that we predetermine what calls we're</p> <p>10 going to make and go from there. And the system -- and</p> <p>11 Jamie and -- the ownership and executives decide which</p> <p>12 calls are going to be loaded.</p> <p>13 Q So your understanding of how a predictive</p> <p>14 dialer works is, correct me if I'm wrong, Diversified</p> <p>15 decides what numbers are going to be called, those</p> <p>16 numbers are assembled in some sort of spreadsheet form</p> <p>17 and uploaded to LiveVox, correct?</p> <p>18 MR. O'CONNOR: Objection to the form.</p> <p>19 THE WITNESS: We decide which numbers are going</p> <p>20 to be dialed, and they are uploaded to LiveVox. I'm</p> <p>21 not sure of the format they -- they go into LiveVox</p> <p>22 in, but they go into LiveVox through a format.</p> <p>23 BY MR. LEMBERG:</p> <p>24 Q And then LiveVox makes the phone calls?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 24</p> <p>1 MR. LEMBERG: I'm sorry, Jack. Plaintiffs' 4</p> <p>2 is the account history for Rosalee Pagan.</p> <p>3 THE WITNESS: I'm ready.</p> <p>4 BY MR. LEMBERG:</p> <p>5 Q What is -- what is Plaintiffs' 4? Can you tell</p> <p>6 me?</p> <p>7 A I'm sorry. What is what?</p> <p>8 Q What is this exhibit that you are looking at?</p> <p>9 A It's the account history documentation.</p> <p>10 Q For whom?</p> <p>11 A For Rosalee Pagan.</p> <p>12 Q Do you know why it was produced in either the</p> <p>13 Mavis or Davis case?</p> <p>14 A It would have been produced in the appropriate</p> <p>15 case because the phone number associated with the lawsuit</p> <p>16 is listed on this account.</p> <p>17 Q And what is that phone number?</p> <p>18 A I don't even know which case you're talking</p> <p>19 about.</p> <p>20 Q Well, I'm asking you, what is the phone number</p> <p>21 that's associated with the account?</p> <p>22 A There's more than one.</p> <p>23 Q Okay. Well, let me help you. If I told you</p> <p>24 that -- if I told you that Mr. Davis' phone number --</p> <p>25 well, Jamie Davis' phone number is (857) 312-8596, would</p>
<p style="text-align: right;">Page 23</p> <p>1 Q How does LiveVox make the phone calls? However</p> <p>2 you tell it to, correct?</p> <p>3 A Correct.</p> <p>4 Q What does the word "predictive" mean in the</p> <p>5 words "LiveVox predictive dialer"?</p> <p>6 MR. O'CONNOR: Objection to the form.</p> <p>7 MR. LEMBERG: What is the basis?</p> <p>8 MR. O'CONNOR: The question's improper in form.</p> <p>9 It assumes that she wrote that thing that you're</p> <p>10 reading from, Sergei.</p> <p>11 MR. LEMBERG: Okay.</p> <p>12 BY MR. LEMBERG:</p> <p>13 Q Please answer the question.</p> <p>14 A LiveVox predictive dialer, to me the word</p> <p>15 "predictive" means that it's predetermined. It's -- it's</p> <p>16 predetermined.</p> <p>17 Q Anything else?</p> <p>18 A No.</p> <p>19 (Plaintiffs' Exhibit No. 4 marked for identification.)</p> <p>20 MR. LEMBERG: I'd like to show the witness</p> <p>21 what's been marked as Plaintiffs' 4.</p> <p>22 BY MR. LEMBERG:</p> <p>23 Q Please review this document and tell me when</p> <p>24 you're ready.</p> <p>25 MR. O'CONNOR: What is Exhibit 4?</p>	<p style="text-align: right;">Page 25</p> <p>1 you then be able to tell me why this document was</p> <p>2 produced?</p> <p>3 A I guess, again, it was because on July -- I'm</p> <p>4 sorry. It was because the phone number (857) 312-8596 is</p> <p>5 associated with this account.</p> <p>6 Q Okay. So let's see if we can get this</p> <p>7 correctly. Does it appear to you, looking at this</p> <p>8 account history, that Diversified Consultants received an</p> <p>9 account -- a debt for collection for Rosalee Pagan on</p> <p>10 July 9th, 2012?</p> <p>11 A Yes.</p> <p>12 Q And it proceeded to collect that debt on that</p> <p>13 same day, correct?</p> <p>14 A No.</p> <p>15 Q When did the collection activity start?</p> <p>16 A The initial attempt at communication was on</p> <p>17 July 11th.</p> <p>18 Q Okay. And then Diversified Consultants made an</p> <p>19 inquiry with a company called Innovis to find additional</p> <p>20 phone numbers for Rosalee Pagan, correct?</p> <p>21 A Yes.</p> <p>22 Q And that -- and that was done on July 15th,</p> <p>23 2012, correct?</p> <p>24 A Yes.</p> <p>25 Q And Innovis is a data provider that -- that</p>

<p style="text-align: right;">Page 26</p> <p>1 enables collectors such as Diversified Consultants to 2 purchase location information, including phone numbers, 3 correct, for a fee?</p> <p>4 A CBCInnovis is a skip trace service provider?</p> <p>5 Q Right.</p> <p>6 A Yes.</p> <p>7 Q You guys buy -- buy data from them, right?</p> <p>8 A Yes.</p> <p>9 Q And among the data that was provided by 10 CBCInnovis is the phone number (857) 312-8596, correct?</p> <p>11 A Yes.</p> <p>12 Q And then on July 20th, 2012 -- strike that. 13 On August 1st, 2012, that phone number was 14 loaded -- was first called using the LiveVox 15 system, correct?</p> <p>16 A Every call is made through LiveVox.</p> <p>17 Q So the answer is yes, right?</p> <p>18 A Yes.</p> <p>19 Q And then the LiveVox system proceeded to call 20 several numbers in fact for Rosalee Pagan, the 72 number 21 and the 96 number, correct?</p> <p>22 A Yes.</p> <p>23 Q Now, am I correct in reading this chart, the 24 user column indicates the system that is doing the work 25 on the file, in this case on August 1st, LiveVox,</p>	<p>1 (857) 312-8596 consented to being called?</p> <p>2 A No.</p> <p>3 Q Have you ever had any evidence that the 4 recipient of the phone calls to phone number 5 (857) 312-8596 consented to being called by the LiveVox 6 system?</p> <p>7 A No.</p> <p>8 Q Am I correct that in order to determine the 9 number of phone calls made by the LiveVox system to the 10 (857) 312-8596 number, I would simply go down this chart 11 and count them one by one?</p> <p>12 A In most cases, yes.</p> <p>13 Q Unless there are additional phone calls that 14 are made by the dialer that don't make it to this chart, 15 correct?</p> <p>16 A No, that doesn't happen.</p> <p>17 Q Well, then, explain to me why you say "in most 18 cases."</p> <p>19 A We had a note issue in January of 2012 -- or 20 2013, excuse me, that was double noting the accounts.</p> <p>21 Q Do you see that issue reflected in any records 22 here?</p> <p>23 A I'd have to look at it more closely. I do not 24 see that issue on this account.</p> <p>25 Q Do you see any evidence here by looking at</p>
<p style="text-align: right;">Page 27</p> <p>1 correct?</p> <p>2 A Correct.</p> <p>3 Q And the comment column either is generated by 4 the collector who is working the file or by the system, 5 correct?</p> <p>6 A By whom -- whoever is working the file, yes.</p> <p>7 Q And so let's just look at the first call to the 8 96 number on August 1st, 2012, 8:22 a.m. That call was 9 made by LiveVox and the result of the phone call was a 10 hang up, correct?</p> <p>11 A Correct.</p> <p>12 Q And the next call to that phone number was made 13 that same day, on August 1st, by the LiveVox system, and 14 the debtor again hung up the phone, correct, at 8:05 15 p.m., or rather the called party hung up the phone?</p> <p>16 A Yes.</p> <p>17 Q So we're reading these things the same way.</p> <p>18 Now, is there anything here on page 1 or in any 19 other part of this document that tells you that the 20 recipient of these phone calls, 8 -- to the number 21 (857) 312-8596 consented to being called by the LiveVox 22 system?</p> <p>23 A No.</p> <p>24 Q Do you have any evidence to show that the 25 recipient of these phone calls to the 857 number,</p>	<p style="text-align: right;">Page 29</p> <p>1 these call notes that the recipient of the phone calls to 2 the 8596 number told you not to call this number and told 3 you that this is a bad number?</p> <p>4 A On November 15th, 2012, we spoke to somebody 5 and they informed us it was the wrong number.</p> <p>6 Q And what did Diversified Consultants, Inc., do 7 after being told that this number is a bad number for the 8 debtor that it was looking for?</p> <p>9 A Since we were told that it was the wrong number 10 for the consumer, we went ahead and removed the number.</p> <p>11 Q And what day did you remove the number?</p> <p>12 A November 15th.</p> <p>13 Q Did Diversified Consultants make any additional 14 phone calls to the 8596 number after being told it was a 15 bad number?</p> <p>16 A I'm unable to determine that from this.</p> <p>17 Q Was there a phone call made to that number at 18 2:42 p.m.?</p> <p>19 A I'm unable to determine if that's an inbound or 20 an outbound.</p> <p>21 Q What would tell you whether a phone call is 22 inbound or outbound?</p> <p>23 A The call logs from LiveVox.</p> <p>24 Q Is there anything different from -- about this 25 notation than from any other notation reflecting calls by</p>

<p>1 the LiveVox system?</p> <p>2 A Inbound and outbound are documented the same</p> <p>3 way by LiveVox, so no.</p> <p>4 Q How do you know that the number was removed on</p> <p>5 the 15th of November?</p> <p>6 A Because C098 removed the number. It --</p> <p>7 THE REPORTER: I'm sorry. Because?</p> <p>8 THE WITNESS: C098.</p> <p>9 BY MR. LEMBERG:</p> <p>10 Q And what is C098?</p> <p>11 A C098 is the user name -- user number for the</p> <p>12 collector who took the call and removed the number.</p> <p>13 Q You said you were unable to determine</p> <p>14 whether -- when the number was removed without looking at</p> <p>15 the call -- the dialer notes.</p> <p>16 MR. LEMBERG: I'd like to mark this as</p> <p>17 Plaintiffs' 5.</p> <p>18 (Plaintiffs' Exhibit No. 5 marked for identification.)</p> <p>19 BY MR. LEMBERG:</p> <p>20 Q Please take a look at this document.</p> <p>21 MR. O'CONNOR: What is it, Sergei?</p> <p>22 MR. LEMBERG: That's the -- the summary of the</p> <p>23 dialer notes.</p> <p>24 THE WITNESS: Okay.</p> <p>25 BY MR. O'CONNOR:</p>	<p>Page 30</p> <p>1 A I don't know what the right word would be.</p> <p>2 Q How about sent?</p> <p>3 MR. O'CONNOR: Objection to the form.</p> <p>4 THE WITNESS: I think there's -- I don't know</p> <p>5 how to explain that.</p> <p>6 BY MR. LEMBERG:</p> <p>7 Q What does the column "Skill" mean?</p> <p>8 A The skill is the client that it's assigned</p> <p>9 to.</p> <p>10 Q What does that mean?</p> <p>11 A Like that one's assigned to T-Mobile/Sprint, so</p> <p>12 all of our T-Mobile/Sprint collectors would be eligible</p> <p>13 for an inbound call or an outbound call.</p> <p>14 Q And what does the column "Name" mean?</p> <p>15 A It's the name of the consumer we're attempting</p> <p>16 to reach.</p> <p>17 Q And what does the column "Account" mean?</p> <p>18 A It's Diversified's file number.</p> <p>19 Q Column "Agent"?</p> <p>20 A That would be if the call connected with the</p> <p>21 representative, the representative that worked the</p> <p>22 account.</p> <p>23 Q Column "Date"?</p> <p>24 A That's the date of the call.</p> <p>25 Q And "Start" and "End" show the start and end</p>
<p>1 Q Do you -- can you tell me what Plaintiffs' 5</p> <p>2 is?</p> <p>3 A This is the call recording log for -- from</p> <p>4 LiveVox system.</p> <p>5 Q What does that mean?</p> <p>6 A It's a list of every call that LiveVox made to</p> <p>7 the specific number requested on specific dates and</p> <p>8 times.</p> <p>9 Q And how does Plaintiffs' 5 correspond to</p> <p>10 Plaintiffs' 4?</p> <p>11 A If you have a call on the call log, it will</p> <p>12 appear on the account history as well.</p> <p>13 Q I'd like for you to please help me out with</p> <p>14 the column headings in this chart. "Call Center" means</p> <p>15 the call center to which the phone calls would be routed</p> <p>16 if someone picked up, correct?</p> <p>17 A That's the call center that the call is headed</p> <p>18 to, yes.</p> <p>19 Q So the LiveVox system is making the call, and</p> <p>20 if somebody picks up, the call would be routed to DCI</p> <p>21 Jacksonville, correct?</p> <p>22 A I don't know if routed is the right word, but</p> <p>23 it would be -- a Jacksonville representative would take</p> <p>24 the call.</p> <p>25 Q So what is the right word?</p>	<p>Page 31</p> <p>1 times of the call, correct?</p> <p>2 A Correct.</p> <p>3 Q Now, what does the column "Campaign" mean?</p> <p>4 A I'm really not sure. I would imagine that's</p> <p>5 the terminology that Jamie uses to upload the calls that</p> <p>6 are going to be made that day.</p> <p>7 Q So that's the name of the CSV file containing</p> <p>8 the phone numbers which had the number that was called on</p> <p>9 that day, right?</p> <p>10 A I don't know what CSV file is.</p> <p>11 Q Well --</p> <p>12 MR. LEMBERG: Jack, I have an issue here and</p> <p>13 I'd like to alert you to this issue. Rule 30(b)(6)</p> <p>14 requires the defendant to designate a knowledgeable</p> <p>15 and prepared witness. It seems to me on the dialer</p> <p>16 issue this witness doesn't -- doesn't know the</p> <p>17 basics, and in fact appears to know less than I.</p> <p>18 I'm going to try to make a go of this</p> <p>19 deposition since I flew here to Florida, but we may</p> <p>20 be looking for DCI to produce a knowledgeable</p> <p>21 witness in our office as soon as possible. Because</p> <p>22 it appears to me that if the witness doesn't know</p> <p>23 what a campaign definition report is and doesn't</p> <p>24 know what a CSV file is, I have a hard time</p> <p>25 believing that she is the person that should be</p>

<p>1 answering questions about the dialer. What do you 2 have to say about that?</p> <p>3 MR. O'CONNOR: Well, we have a respectful 4 disagreement, and you're certainly entitled to make 5 whatever record you want to make.</p> <p>6 BY MR. LEMBERG:</p> <p>7 Q So can you tell me what the CSV file is?</p> <p>8 A I don't know what a CSV is.</p> <p>9 Q Do you know what the master tnums file 10 underscore test underscore 08-01-2012 underscore ts 11 underscore July csv stand for?</p> <p>12 A I don't know the specific type of file a CSV 13 is, but the CSV is a file type. And the rest of it would 14 be the name that Mr. Sullivan named the file to upload.</p> <p>15 Q Do the words "comma-separated values" mean 16 anything to you?</p> <p>17 A I'm not familiar with that term.</p> <p>18 Q Do you recognize them as having any 19 relationship to the document that you're looking at?</p> <p>20 A Comma-separated values would be the CSV 21 definition most likely, or the acronym.</p> <p>22 Q But you don't know what -- the actual program 23 that generates that file, whether it's Excel or TEXT or 24 anything else?</p> <p>25 A No.</p>	<p>Page 34</p> <p>1 call is 12 seconds.</p> <p>2 Q But this person called back from their number 3 to the number that called them, true?</p> <p>4 A And did not speak with us, correct.</p> <p>5 Q Any other inbound calls or connections on page 6 2?</p> <p>7 A Yes, September 5th.</p> <p>8 Q What happened on that call?</p> <p>9 A It is three seconds long, and no agent spoke to 10 it.</p> <p>11 Q How about on page 3?</p> <p>12 A I do not see any on page 3.</p> <p>13 Q What about on page 4?</p> <p>14 A There are three of them on page 4, November 15 15th, all three of them, and they spoke to a 16 representative each time.</p> <p>17 Q And when was the last time they spoke to a 18 representative?</p> <p>19 A At 2:43 on November 13th -- November 15th, 20 2012.</p> <p>21 Q So -- and can you tell me -- can you now 22 connect these calls on page 3, where the person spoke 23 with a representative, with the account history that we 24 looked together -- looked at together briefly a few 25 minutes ago? At 2:43 it seems to me there is -- there is</p>
<p>Page 35</p> <p>1 Q Word? You don't? Okay. 2 What about "Caller ID," what does that mean?</p> <p>3 A That's the number that is appearing on the 4 consumer's caller ID.</p> <p>5 Q And the "Outcome"?</p> <p>6 A That's the outcome of the call.</p> <p>7 Q Now, if I go -- then instead of looking at 8 columns, if I go by rows, each row reflects a phone call 9 made to the 8596 number, correct?</p> <p>10 A Yes.</p> <p>11 Q By the LiveVox system, correct?</p> <p>12 A There could also be inbound calls on here.</p> <p>13 Q And what -- do you see any inbound calls on 14 here?</p> <p>15 A I do.</p> <p>16 Q Show me an inbound call.</p> <p>17 A The last line on page 1 says, "T-Mobile 18 underscore Sprint underscore IB," for inbound.</p> <p>19 Q So the person from this number called inbound 20 and was transferred to an operator, correct?</p> <p>21 A Did not connect, but yes.</p> <p>22 Q When you say "did not connect," what do you 23 base that on?</p> <p>24 A There are several factors here. The agent -- 25 there's no agent number, and the length of time of the</p>	<p>Page 37</p> <p>1 a live call you just testified where the person 2 connected, correct?</p> <p>3 A There was a connected call at 2:42, 2:43 and 4 again at 2:43, yes.</p> <p>5 Q And then does the account history not show that 6 your system dialed this 8596 number again at 3:29 p.m.?</p> <p>7 A It would have been loaded already, yes.</p> <p>8 Q Do you know how this document came to be 9 produced in this litigation?</p> <p>10 A Yes, I went to the LiveVox system and typed the 11 information and requested for the document.</p> <p>12 Q And what did it give you?</p> <p>13 A Gave me this exact information in a PDF 14 format.</p> <p>15 Q So there's a record of these phone calls being 16 made in the LiveVox system, correct?</p> <p>17 A Yes.</p> <p>18 Q Which is what enabled you to create this 19 Exhibit 5, correct?</p> <p>20 A Yes.</p> <p>21 Q So that system stores the information that had 22 been uploaded to it by Diversified Consultants, 23 correct?</p> <p>24 A I don't understand.</p> <p>25 Q Well, if the information that allowed these</p>

<p>1 phone calls had been deleted and eliminated from that 2 system, you would not have been able to produce this 3 dialer history that you produced, correct?</p> <p>4 A It keeps a history of what we do, yes.</p> <p>5 Q But the information is there, you just need to 6 pull it out, right?</p> <p>7 A It's a history.</p> <p>8 Q But it's a history of what, of the phone calls 9 being made, right?</p> <p>10 A Of previous actions that were done, yes.</p> <p>11 Q And that history is stored on the -- on the 12 LiveVox server, correct?</p> <p>13 A I'm not sure --</p> <p>14 MR. O'CONNOR: Object to the form.</p> <p>15 THE WITNESS: I'm not sure where -- how it's 16 stored.</p> <p>17 BY MR. LEMBERG:</p> <p>18 Q Well, speaking of LiveVox, you're here to talk 19 about it, you referred to it as the cloud. Can you 20 explain to me -- is it a computer?</p> <p>21 A No.</p> <p>22 Q What is it?</p> <p>23 A It's a software program or -- not a program, 24 excuse me. I don't know the exact terminology, but it's 25 a cloud-based program.</p>	<p>Page 38</p> <p>1 technical. The terminology is not there. But a 2 computer, like a personal computer is not meant to run 3 programs in -- in a large number base like a server does. 4 The server stores the information. It -- it runs the 5 processes for the computer.</p> <p>6 Q I think -- whatever LiveVox is, you and I don't 7 have to agree on what it is, I think you and I can agree 8 that it's probably run on a server, correct?</p> <p>9 MR. O'CONNOR: Objection to the form. 10 Don't answer that, Mavis.</p> <p>11 MR. LEMBERG: What's the basis of the 12 instruction not to answer?</p> <p>13 MR. O'CONNOR: She works for DCI. We're here 14 to testify on behalf of DCI, Sergei. She's not 15 LiveVox.</p> <p>16 BY MR. LEMBERG:</p> <p>17 Q Please answer the question if you can. 18 MR. O'CONNOR: Mavis, don't answer the 19 question.</p> <p>20 Move to the next issue, please, Sergei.</p> <p>21 MR. LEMBERG: I will not accept that.</p> <p>22 Mr. O'Connor, you are interrupting the --</p> <p>23 BY MR. LEMBERG:</p> <p>24 Q Will you follow Mr. O'Connor's advice, yes or 25 no?</p>
<p>1 Q Does that cloud-based program run on a 2 server?</p> <p>3 A Yes.</p> <p>4 Q A computer server?</p> <p>5 A I honestly don't know.</p> <p>6 Q What -- what else could it run on?</p> <p>7 A I don't know.</p> <p>8 MR. O'CONNOR: Objection to the form.</p> <p>9 THE WITNESS: I don't know the exact --</p> <p>10 BY MR. LEMBERG:</p> <p>11 Q Have you ever -- okay.</p> <p>12 You don't know what it runs on. But do you 13 know whether it runs on a computer, yes or no?</p> <p>14 A Does it run on our computer?</p> <p>15 Q Does it run on a computer?</p> <p>16 A Yes.</p> <p>17 Q Of course. Does it run on a big computer or a 18 small computer?</p> <p>19 A I haven't actually seen the computer it runs 20 on.</p> <p>21 Q Do you know the difference between a computer 22 and a server?</p> <p>23 A Yes.</p> <p>24 Q What's the difference?</p> <p>25 A The servers are rather large. Again, I'm not</p>	<p>Page 39</p> <p>1 A Yes.</p> <p>2 MR. LEMBERG: Okay. Mr. O'Connor, I will 3 advise you that this is an improper objection to the 4 federal rules. The witness is not being abused, and 5 I'm not asking her about anything privileged. She's 6 here to talk about LiveVox. I'm asking her a 7 question -- I'm asking her to confirm to me that it 8 runs on a server. Your instruction is improper, and 9 I will ask the question again.</p> <p>10 BY MR. LEMBERG:</p> <p>11 Q Do you know whether the LiveVox system runs on 12 a server?</p> <p>13 MR. O'CONNOR: She already testified she does 14 not know the answer to that, Sergei. She said that 15 about three times.</p> <p>16 MR. LEMBERG: Okay. Well, I reserve all of my 17 rights to seek sanctions and the redeposition of 18 Diversified on the LiveVox issue.</p> <p>19 Since I am here, I will proceed to figure out 20 what this witness knows or doesn't know. But I -- 21 my position is -- is clear that there is not a 22 knowledgeable witness here on the dialer issue, that 23 the witness is -- in fact does not have the 24 requisite technical knowledge or preparation to be 25 able to testify here today.</p>

<p>1 Let's mark this as -- this is 6.</p> <p>2 (Plaintiff's Exhibit No. 6 marked for identification.)</p> <p>3 MR. LEMBERG: I placed in front of the witness</p> <p>4 what's been marked as Plaintiffs' 6. It's the</p> <p>5 account history for AT&T Mobility.</p> <p>6 BY MR. LEMBERG:</p> <p>7 Q Ms. Pye, would you please take a look at this</p> <p>8 document.</p> <p>9 A Okay.</p> <p>10 Q Have you ever seen this Plaintiffs' 6 before?</p> <p>11 A Yes, I have.</p> <p>12 Q Can you please tell me what it is.</p> <p>13 A It's the account history for Nicholas Mavis.</p> <p>14 Q And the account history, like the prior account</p> <p>15 history, is generated from the computers of Diversified</p> <p>16 Consultants, correct?</p> <p>17 A It's generated from our -- I generated it from</p> <p>18 our Latitude system or Latitude software.</p> <p>19 Q And these records are kept in the ordinary</p> <p>20 course of business, correct?</p> <p>21 A Of course, yes.</p> <p>22 Q Now, does this to you appear to be the account</p> <p>23 notes for the collection of Nicholas Mavis' AT&T account,</p> <p>24 correct?</p> <p>25 A Yes, it does.</p>	<p>Page 42</p> <p>1 A Correct.</p> <p>2 Q You can't tell looking at these collection</p> <p>3 notes whether this number actually came from the</p> <p>4 creditor, can you?</p> <p>5 A No.</p> <p>6 Q What would enable you to tell me that?</p> <p>7 A I believe I'd have to send an e-mail to our VP</p> <p>8 of client relations and ask her, and she would contact</p> <p>9 AT&T.</p> <p>10 MR. LEMBERG: Mark this as Plaintiffs' 7.</p> <p>11 (Plaintiffs' Exhibit No. 7 marked for identification.)</p> <p>12 BY MR. LEMBERG:</p> <p>13 Q I've placed before you a document that's been</p> <p>14 produced in this litigation marked as Plaintiffs' 7.</p> <p>15 It's the AT&T wireless statement for Nicholas Mavis,</p> <p>16 phone number (413) 388-7469. Do you see that?</p> <p>17 A I don't see the phone number. Where is that</p> <p>18 at? Oh, yes, I see it.</p> <p>19 Q Do you know why this statement was produced in</p> <p>20 this case?</p> <p>21 A No.</p> <p>22 Q Is this the account that Diversified</p> <p>23 Consultants was collecting for AT&T?</p> <p>24 A Yes, it is.</p> <p>25 Q So let's just be clear, looking at the Mavis</p>
<p>1 Q Can you tell me what number Mr. Mavis had when</p> <p>2 he defaulted on this loan -- on this account?</p> <p>3 A Not from this, no.</p> <p>4 Q Can you tell me how -- on what date Diversified</p> <p>5 got Mr. Mavis' -- Mr. Mavis' account for collection?</p> <p>6 A This account was received by Diversified on</p> <p>7 March 20th, 2013.</p> <p>8 Q And what's the next thing that happened on this</p> <p>9 account?</p> <p>10 A We requested a TransUnion service on it.</p> <p>11 THE REPORTER: You requested?</p> <p>12 THE WITNESS: A TransUnion service.</p> <p>13 BY MR. LEMBERG:</p> <p>14 Q And what -- what is TransUnion?</p> <p>15 A It's a skip trace program, a skip trace</p> <p>16 vendor.</p> <p>17 Q Like CBCInnovis, right?</p> <p>18 A Similar, yes.</p> <p>19 Q So you requested a number to call -- there's</p> <p>20 information about this debtor, including a number to call</p> <p>21 him?</p> <p>22 A We requested information on the consumer</p> <p>23 location information, yes.</p> <p>24 Q And TransUnion gave Diversified Consultants</p> <p>25 this number (413) 454-8957, correct?</p>	<p>Page 43</p> <p>1 account history and what we now see as the AT&T wireless</p> <p>2 statement, the account Diversified Consultants was</p> <p>3 collecting for AT&T is for the phone number</p> <p>4 (413) 388-7469, correct?</p> <p>5 A That is the phone number, at least what's on</p> <p>6 the account.</p> <p>7 Q Are there others?</p> <p>8 A I don't know. I'm checking.</p> <p>9 I'm not sure if there were or not.</p> <p>10 Q Do you see any other -- feel free to look at 6,</p> <p>11 7 or any other documents that are on the table in front</p> <p>12 of you. And based on your review, please tell me whether</p> <p>13 there are any numbers associated with Mr. Mavis that --</p> <p>14 for which AT&T asked Diversified Consultants to collect</p> <p>15 this debt.</p> <p>16 A I'm sorry. Can you please rephrase that?</p> <p>17 Q Well, what I'm trying to figure out is, the</p> <p>18 account number, the AT&T -- the account number on the</p> <p>19 AT&T statement and the account number in the account</p> <p>20 history are the same, correct?</p> <p>21 A Our -- our account number is -- well, our</p> <p>22 file -- our account ID is not, but the account number is</p> <p>23 the same.</p> <p>24 Q The account number is the same. The only phone</p> <p>25 number that I can see on the -- on Plaintiffs' 7, the</p>

<p style="text-align: right;">Page 46</p> <p>1 AT&T statement, associated with this account is the 7469 2 number, right?</p> <p>3 A I think there's pages missing from this.</p> <p>4 Q Which page is missing?</p> <p>5 A Page 2 of 3.</p> <p>6 Q Well, this was produced by the defendant. This 7 was not produced by us.</p> <p>8 A Unless it's just out of order. Hang on. 9 They're out of order.</p> <p>10 Q Okay. Please feel free to reorder them.</p> <p>11 MR. LEMBERG: Let the record reflect that 12 Plaintiffs' 7 is being reordered to reflect correct 13 pagination.</p> <p>14 BY MR. LEMBERG:</p> <p>15 Q Please tell me when you're ready.</p> <p>16 A I think I'm ready.</p> <p>17 Q Now, that you've reordered the pages, do you 18 see any numbers other than the 7469 number associated 19 with Mr. Mavis' account?</p> <p>20 A I do not.</p> <p>21 Q Is there any record that you can see by looking 22 at Plaintiffs' 6 and Plaintiffs' 7 that shows that the 23 phone number (413) 454-8957 was provided to Diversified 24 Consultants by AT&T?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 48</p> <p>1 A There's terminology in there allowing for 2 collection agencies to contact them with their delinquent 3 bills.</p> <p>4 Q Are you aware of -- has that contract been 5 produced in this litigation?</p> <p>6 A I'm not sure.</p> <p>7 Q Have you ever seen the contract?</p> <p>8 A I have.</p> <p>9 Q Have you ever seen Mr. Mavis' contract?</p> <p>10 A Not specifically to my knowledge, no.</p> <p>11 MR. LEMBERG: I'm going to make a request for 12 Mr. Mavis' contract to the extent that defendant has 13 it.</p> <p>14 BY MR. LEMBERG:</p> <p>15 Q But there's no evidence of consent in these 16 documents 6 and 7, correct?</p> <p>17 A Correct.</p> <p>18 Q Now, looking at the account history, back to 19 Plaintiffs' 6, when was the first time you were told -- 20 let me see -- strike that.</p> <p>21 On April 30th, 2013, there is a notation saying 22 "bad number." What does that mean to you?</p> <p>23 A That is my assistant Cheryl, and she removed 24 the number from the account.</p> <p>25 Q How do you know that?</p>
<p style="text-align: right;">Page 47</p> <p>1 Q Because in fact it was provided by TransUnion, 2 correct?</p> <p>3 A Correct.</p> <p>4 Q Is there anything in these Exhibits 6 and 7 5 that reflects Mr. Mavis' consent for your company to call 6 him using -- strike that.</p> <p>7 Is there anything in Plaintiffs' 6 and 7 that 8 shows that your company had the consent to call Mr. Mavis 9 in any way on the (413) 454-8957 number provided to you 10 by TransUnion?</p> <p>11 A Give me one second to review real quick.</p> <p>12 Can you repeat the question for me one more 13 time?</p> <p>14 Q Is there any evidence of consent here to call 15 the 8957 number?</p> <p>16 A No.</p> <p>17 Q Is there any evidence of consent that you're 18 aware of to call the 8957 number?</p> <p>19 A Yes.</p> <p>20 Q And what is that evidence?</p> <p>21 A His contract he originally signed with AT&T.</p> <p>22 Q And where is that contract?</p> <p>23 A It may have been done electronically. I don't 24 know.</p> <p>25 Q And what does that contract say?</p>	<p style="text-align: right;">Page 49</p> <p>1 A How do I know she removed the number?</p> <p>2 Q Uh-huh.</p> <p>3 A Because it says "bad number."</p> <p>4 Q You can't tell looking at the account notes how 5 many times the number had been dialed prior to its 6 removal, correct?</p> <p>7 A You should be able to.</p> <p>8 Q Would you need the dialer history for that?</p> <p>9 A To verify, yes.</p> <p>10 MR. LEMBERG: Well, I'm going to mark as 11 Plaintiffs' 9 the dialer history for the 5348 12 number.</p> <p>13 THE REPORTER: It would be 8, Plaintiffs' 8, 14 not --</p> <p>15 MR. LEMBERG: Yes. Plaintiffs' 8, I'm sorry. 16 (Plaintiffs' Exhibit No. 8 marked for identification.)</p> <p>17 BY MR. LEMBERG:</p> <p>18 Q Tell me when you're ready.</p> <p>19 A I'm ready.</p> <p>20 Q So this is a dialer history that was created 21 the same way as the dialer history we talked about on the 22 Davis case, correct?</p> <p>23 A Yes.</p> <p>24 Q And looking at this dialer history, it is to be 25 interpreted the same way as -- as the Davis account</p>

<p>1 history, correct?</p> <p>2 A Yes.</p> <p>3 Q The columns are all -- are the same I see; am I</p> <p>4 correct?</p> <p>5 A Correct.</p> <p>6 Q And each row reflects an outbound call placed</p> <p>7 by the LiveVox system, correct?</p> <p>8 A Or an inbound call.</p> <p>9 Q Or an inbound call. And what is the first time</p> <p>10 you see an out- -- inbound call on this account?</p> <p>11 A March 25th at 11 -- I'm sorry -- 11:11:55 a.m.</p> <p>12 Q And all the other calls the dialer called</p> <p>13 except the manual call on March 28th, correct?</p> <p>14 A There is an inbound call on March 30th.</p> <p>15 There's a manual on April 1st -- actually two, April 2nd,</p> <p>16 April 2nd, April 3rd --</p> <p>17 Q Hold on. How can you tell --</p> <p>18 A QC.</p> <p>19 Q How can you tell looking at these that these</p> <p>20 are manual calls?</p> <p>21 A Because it says QC instead of RPC.</p> <p>22 Q In which column?</p> <p>23 A In the skill.</p> <p>24 Q And what do the words "QC" stand for?</p> <p>25 A Quick connect.</p>	<p>Page 50</p> <p>1 A Every call that Diversified makes is done</p> <p>2 through LiveVox.</p> <p>3 Q Okay.</p> <p>4 A So the -- I don't know what you would exclude</p> <p>5 unless you're not counting LiveVox.</p> <p>6 Q Okay. On this page -- on this page 1, these</p> <p>7 are all calls made by LiveVox, correct?</p> <p>8 A Minus an inbound call from March 25th.</p> <p>9 Q Minus the inbound call from March 25th. Okay.</p> <p>10 So this -- on page 2?</p> <p>11 A March 30th there's an inbound call.</p> <p>12 Q On page 3?</p> <p>13 A Page 3 I do not see any inbound calls.</p> <p>14 Q Page 4?</p> <p>15 A I do not see any inbound calls.</p> <p>16 Q Page 5?</p> <p>17 A I do not see any inbound calls.</p> <p>18 Q So excluding these two inbound calls, the rest</p> <p>19 are outbound calls made -- being made with LiveVox,</p> <p>20 correct?</p> <p>21 A Being made utilizing LiveVox, yes.</p> <p>22 Q Okay. And the same applies when we were</p> <p>23 looking at the -- at the Davis account dialer log,</p> <p>24 correct?</p> <p>25 A The call log for Davis?</p>
<p>1 Q And what does quick connect -- what is quick</p> <p>2 connect?</p> <p>3 A It's a quick connector call.</p> <p>4 Q What is that -- what is the system that is</p> <p>5 being used to make the call?</p> <p>6 A We still use LiveVox for every call we make:</p> <p>7 manual, inbound, outbound, quick connect, RPC.</p> <p>8 Q So these QC calls that you are talking about</p> <p>9 are still used -- used through the LiveVox system that</p> <p>10 you folks use, correct?</p> <p>11 A Yes.</p> <p>12 Q That's how they're made, through the LiveVox,</p> <p>13 right?</p> <p>14 A Every call that's placed or received at</p> <p>15 Diversified Consultants for a collector to a consumer is</p> <p>16 used through LiveVox.</p> <p>17 Q When did -- and so if I were to try to count</p> <p>18 the number of calls that Diversified made to this 5348</p> <p>19 number through the LiveVox system, I would go down the</p> <p>20 list and count them up, correct, excluding the manual</p> <p>21 calls and the inbound calls, correct?</p> <p>22 A Every call that we made? Well, manual calls</p> <p>23 are made through LiveVox, too.</p> <p>24 Q Ah. So those have to be included. So what</p> <p>25 would I exclude?</p>	<p>Page 51</p> <p>1 Q All -- all calls except inbound calls are</p> <p>2 dialer calls, right?</p> <p>3 A They're not dialer calls. They're calls made</p> <p>4 through LiveVox.</p> <p>5 Q Okay. Now, last question on Plaintiffs' 8. Do</p> <p>6 you see on the campaign -- in the campaign column the</p> <p>7 files have -- the file names have the word "blast" in</p> <p>8 them. Do you see that?</p> <p>9 A I do.</p> <p>10 Q What do the words "ERC" or "ERC blast" mean?</p> <p>11 A I'm not exactly sure what it means.</p> <p>12 Q What does the word "blast" mean to you</p> <p>13 A ERC blast would be -- ERC is our competitor.</p> <p>14 So it's a tease for them, to tease them.</p> <p>15 Q Tell me, what does that mean. How are you</p> <p>16 teasing them?</p> <p>17 A Well, it's like -- I don't know how to explain</p> <p>18 that. It's just a -- it's something -- just however he</p> <p>19 named it. It's not --</p> <p>20 Q Is it the -- why would the competitor's name be</p> <p>21 in a file name uploaded by a he to LiveVox?</p> <p>22 A Why not?</p> <p>23 Q I'm not sure what the context is. What do you</p> <p>24 think he's meaning to do here? Why is he naming these --</p> <p>25 A He was probably told that ERC is beating us</p>

<p style="text-align: right;">Page 54</p> <p>1 this month and we need to find out -- find out what we 2 can do different. I mean, it's just --</p> <p>3 Q So this is, the ERC blast, ERC is beating you 4 this month, you've got to make more phone calls, right?</p> <p>5 A No, not make more phone calls, beat ERC.</p> <p>6 Q How would you beat ERC by naming the file this 7 way?</p> <p>8 A It doesn't matter what the file is named.</p> <p>9 Q Is ERC collecting the same accounts as -- as 10 Diversified?</p> <p>11 A Not the same exact accounts.</p> <p>12 Q Uh-huh. And what does the word "blast" mean?</p> <p>13 A I don't know what he meant by that.</p> <p>14 Q Well, what did --</p> <p>15 A I didn't make the campaign.</p> <p>16 Q Okay. But tell me what it means to you.</p> <p>17 A It means Jamie's being a joke. I don't know 18 what it means.</p> <p>19 Q Does the word "blast" mean make a bunch of 20 calls at one time?</p> <p>21 A No. To me -- I don't know. I don't --</p> <p>22 Q Tell me how you understand the word "blast" in 23 English.</p> <p>24 A To me blast means having a good time. It 25 doesn't mean blast. I mean --</p>	<p style="text-align: right;">Page 56</p> <p>1 What are the facets -- the facets for which DCI uses 2 LiveVox?</p> <p>3 A I don't know every one of them.</p> <p>4 Q Let's start with the first one and see if --</p> <p>5 how many we can make.</p> <p>6 A Every call is recorded.</p> <p>7 Q Every call is recorded. Okay. What else?</p> <p>8 A There's a record of every call made.</p> <p>9 Q What else?</p> <p>10 A Better time management.</p> <p>11 Q What else?</p> <p>12 A It allows us to track our collectors better.</p> <p>13 Q Okay. What else?</p> <p>14 A It's efficient. It's a good company.</p> <p>15 Q What else?</p> <p>16 A It doesn't break down.</p> <p>17 Q What else?</p> <p>18 A I -- I don't know what you're looking for, but 19 that's the main factors. I'm sure price has something to 20 do with it, too, but ...</p> <p>21 Q So as I understand it, LiveVox -- from you, 22 LiveVox is somewhere out there in the cloud making phone 23 calls, right?</p> <p>24 A LiveVox is facilitating the phone calls, 25 right.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Ah. So this is -- this is -- this is named to 2 reflect that Diversified is having a good time calling --</p> <p>3 A No, it's not.</p> <p>4 Q -- these folks? I'm telling you, I'm just 5 looking to figure out why it's named this way.</p> <p>6 MR. O'CONNOR: She's answered the question, 7 Sergei. Please move to another topic.</p> <p>8 BY MR. LEMBERG:</p> <p>9 Q Can you tell me the answer?</p> <p>10 A I don't know the answer.</p> <p>11 Q Okay. Let's talk about this LiveVox system a 12 little bit and then we'll come back to the collection 13 notes.</p> <p>14 What is your understanding about how the 15 LiveVox system operates? What -- strike that.</p> <p>16 What's your understanding of what use DCI makes 17 of the LiveVox system?</p> <p>18 A What use we make of it?</p> <p>19 Q Yeah.</p> <p>20 A We use it for compliance purposes. For me, the 21 main reason I like the LiveVox system is because we can 22 record every call we make, every call is documented, and 23 I mean, that's one of the reasons we use it. It's --</p> <p>24 there's multiple facets for why we use it.</p> <p>25 Q Okay. Let's go through them one by one.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q Facilitating. So DCI collectors don't make 2 outbound phone calls, correct?</p> <p>3 A No, they do.</p> <p>4 Q Well, some do. But most calls are made by 5 LiveVox or through LiveVox?</p> <p>6 A Through LiveVox.</p> <p>7 Q Right. So there's a -- LiveVox is a computer 8 that lives in the cloud that makes phone calls for DCI, 9 and then when somebody picks up the phone, the call is 10 then transferred to a DCI collector, correct?</p> <p>11 A In some circumstances.</p> <p>12 Q And in other circumstances what happens?</p> <p>13 A The collector punches in the number on the 14 keypad and says -- hits the call button, and the call is 15 dialed, and the collector hears the phone ring, and his 16 answering machine picks up or --</p> <p>17 Q Those calls are still made through the use of 18 the LiveVox, correct?</p> <p>19 A Yes.</p> <p>20 Q So let's just deal with the -- the first 21 category, the calls that the LiveVox system makes without 22 the collector punching a key of any sort.</p> <p>23 A I'm sorry --</p> <p>24 Q In order to do that, in order for the LiveVox 25 system to know which numbers to dial, Diversified</p>

Page 58		Page 60
1	Consultants selects the phone numbers in some fashion,	1 his computer?
2	correct?	2 A Yeah.
3	A We choose -- we tell it what phone numbers to	3 Q What's the name of the program?
4	dial.	4 A I'm not sure. I'm not sure if he's using
5	Q Right. And how do you -- and Diversified	5 Excel, if he's using Latitude. I know it's all
6	Consultants tells it what numbers to dial by assembling a	6 integrated together, but I don't know if he uses our
7	spreadsheet, correct?	7 software Latitude or if he's using Live -- LiveVox to --
8	MR. O'CONNOR: Objection to the form.	8 I mean, I imagine it's Excel. I'm just not 100 percent
9	THE WITNESS: I don't know how they assemble	9 sure. I don't want to say it's Excel and be wrong, so
10	it. I don't know what format they're using.	10 I'm telling you I don't know.
11	BY MR. LEMBERG:	11 Q Did you ask Jamie before coming here what he
12	Q Well, how does Diversified Consultants tell	12 does?
13	LiveVox to dial numbers?	13 A No.
14	A Jamie has that program. He's the one that runs	14 Q Any reason why not?
15	the program for that.	15 A Because we're both very busy.
16	MR. LEMBERG: Jack, what are we going to do?	16 Q Were you told that you may be required to
17	MR. O'CONNOR: What do you mean? You almost	17 answer questions here about the LiveVox system used by
18	done?	18 Diversified Consultants?
19	MR. LEMBERG: No, I -- I can't even start.	19 MR. O'CONNOR: Objection, objection.
20	MR. O'CONNOR: I'm not sure what you're talking	20 Don't answer that, Mavis.
21	about, Sergei. You're asking --	21 MR. LEMBERG: Jack -- well ...
22	MR. LEMBERG: I am -- I am at this point,	22 BY MR. LEMBERG:
23	having read this manual several times, significantly	23 Q Let's talk in the abstract. Let's just imagine
24	more versed in it than the witness. And so I'm	24 Jamie wakes up in the morning, as you said, and does --
25	having trouble asking questions even on a very basic	25 and logs on to his home computer and creates a file. Can
Page 59		Page 61
1	level.	1 we agree on that?
2	MR. O'CONNOR: Well, the question --	2 A Sure.
3	MR. LEMBERG: I need -- I need a knowledgeable	3 Q And the file contains phone numbers. Can we
4	witness here to talk about the system.	4 agree on that?
5	MR. O'CONNOR: We have a knowledgeable witness	5 A Yes.
6	from DCI. If you want a knowledgeable witness from	6 Q And roughly what time does he do that from his
7	LiveVox, send them a subpoena.	7 home computer?
8	MR. LEMBERG: The witness from DCI is not	8 A Between 4:30 and 5:30.
9	knowledgeable, Jack. The witness from DCI doesn't	9 Q And those -- that file, what happens, then, to
10	know how the campaign is created, doesn't know what	10 that file?
11	file names are used. She doesn't know the basics.	11 A It's uploaded to LiveVox.
12	MR. O'CONNOR: You can make any record you	12 Q Uploaded to the LiveVox server, correct, to the
13	want, Sergei. She's here to answer your questions.	13 cloud?
14	If you have some, let's continue; if not, let's wrap	14 A Correct.
15	it up.	15 Q And what then happens to those numbers?
16	BY MR. LEMBERG:	16 A At the appropriate time that's been designated
17	Q How does Diversified Consultants -- how does	17 by the settings that Jamie has installed or set up that
18	Diversified Consultants tell the LiveVox system what	18 morning or however he's done it for the specific amount
19	numbers to call?	19 of calls for whatever campaign he's running, the calls
20	A Jamie uses his programs to upload the	20 are made.
21	information on the LiveVox every morning.	21 Q So Jamie decides -- has some -- how does he
22	Q And how does he do it?	22 decide what campaign to run?
23	A Using his home computer. He does it every	23 A He's told the day before by our CEO -- or COO,
24	morning. 5:00 a.m. he gets up and --	24 excuse me, and the vice president of operations and
25	Q Other than -- does he do it using a program on	25 president of the company and everybody else who has any

<p>1 input.</p> <p>2 Q So Jamie gets guidance from upstairs telling</p> <p>3 him what campaign to run, correct?</p> <p>4 A Yeah.</p> <p>5 Q He then decides what phone numbers go into the</p> <p>6 file, correct?</p> <p>7 A Uh-huh.</p> <p>8 Q Then uploads the file to the server run by</p> <p>9 LiveVox, correct?</p> <p>10 A Correct.</p> <p>11 Q And then at the appropriate time, the LiveVox</p> <p>12 makes the phone calls based on however Jamie designs the</p> <p>13 campaign for that day, correct?</p> <p>14 A The campaign and however way he wants --</p> <p>15 whatever way he wants the calls to be made.</p> <p>16 Q And between the time that the file is uploaded</p> <p>17 to LiveVox and the time that the phone calls are made,</p> <p>18 those phone numbers live on the server, correct?</p> <p>19 A I'm not sure --</p> <p>20 MR. O'CONNOR: (Inaudible.)</p> <p>21 THE WITNESS: Sorry.</p> <p>22 THE REPORTER: I'm sorry, Mr. O'Connor, did you</p> <p>23 say something?</p> <p>24 MR. O'CONNOR: Just an objection to the form.</p> <p>25 You can answer it, Mavis, if you can.</p>	<p>Page 62</p> <p>1 A Jacksonville, Florida.</p> <p>2 Q Do you know if he can be here today?</p> <p>3 A I think he's on vacation right now. I don't</p> <p>4 know if he's here today.</p> <p>5 Q Is he in town?</p> <p>6 A I don't know. I know he was there yesterday,</p> <p>7 but he was only there for like an hour.</p> <p>8 Q Can you call and find out if we can ask him</p> <p>9 some questions?</p> <p>10 A I can text him.</p> <p>11 MR. O'CONNOR: No, that's not going to happen</p> <p>12 today, Sergei.</p> <p>13 MR. LEMBERG: Okay. Then, Jack, I'd like to</p> <p>14 make a joint call to the magistrate in the Mavis</p> <p>15 case to see if we can clarify this issue. Or we can</p> <p>16 do it to the district court judge in the -- in the</p> <p>17 Davis case. Tell me what you prefer.</p> <p>18 MR. O'CONNOR: We've produced a 30(b)(6)</p> <p>19 witness who's knowledgeable and happy to answer any</p> <p>20 questions --</p> <p>21 MR. LEMBERG: She doesn't know -- no, she's not</p> <p>22 happy -- Jack, I know she's happy to answer. I'm</p> <p>23 not saying she's unhappy. I'm telling you she</p> <p>24 doesn't know -- she -- she's just not a technical</p> <p>25 person. She doesn't know the answers, the very</p>
<p>1 THE WITNESS: I'm not sure if they live on the</p> <p>2 server or if they are uploaded -- Jamie's got a</p> <p>3 full-time job. I don't know if he uploads them</p> <p>4 every hour or every minute or how it's worked, or if</p> <p>5 they're stored in Latitude until a certain time and</p> <p>6 then transferred over, or what. I'm not exactly</p> <p>7 sure.</p> <p>8 BY MR. LEMBERG:</p> <p>9 Q Okay. Well, you said there's a computer, a</p> <p>10 server somewhere, correct?</p> <p>11 A Right.</p> <p>12 Q To which Jamie uploads the file, right?</p> <p>13 A For the calls that are going to be made.</p> <p>14 Q Right. So once he uploads the file, the file</p> <p>15 sits in that computer, right? Not in the cloud, it sits</p> <p>16 on a computer hard disc somewhere?</p> <p>17 A I'm not sure --</p> <p>18 MR. O'CONNOR: Objection to the form.</p> <p>19 THE WITNESS: I'm not sure where it sits. I'm</p> <p>20 not sure if it sits on a computer, if it sits on the</p> <p>21 cloud, or if they're in Latitude still until the</p> <p>22 time they're supposed to be called, then the account</p> <p>23 number is uploaded.</p> <p>24 BY MR. LEMBERG:</p> <p>25 Q Where does Jamie live?</p>	<p>Page 63</p> <p>1 basic answers.</p> <p>2 MR. O'CONNOR: You're asking her specific</p> <p>3 questions about LiveVox technology, Sergei.</p> <p>4 MR. LEMBERG: She -- that's what she's</p> <p>5 designated for. She's designated --</p> <p>6 MR. O'CONNOR: Don't interrupt. She's not from</p> <p>7 LiveVox, neither is Jamie. If you want specific</p> <p>8 information about LiveVox technology, send a</p> <p>9 subpoena to LiveVox.</p> <p>10 MR. LEMBERG: Well, Jamie is knowledgeable</p> <p>11 because Jamie submitted an affidavit in another case</p> <p>12 saying -- calling the system "ours" and saying that</p> <p>13 he is knowledgeable. So he's clearly knowledgeable,</p> <p>14 he's just not here. And the witness that is here</p> <p>15 cannot testify regarding the methodology for</p> <p>16 initiating and invoking telephone equipment on the</p> <p>17 system used to make outgoing collection calls.</p> <p>18 MR. O'CONNOR: I'm happy to discuss this</p> <p>19 further with you off the record, Sergei.</p> <p>20 MR. LEMBERG: No, I'd like to stay on the</p> <p>21 record.</p> <p>22 Which judge would you like to call?</p> <p>23 MR. O'CONNOR: Call any judge you want.</p> <p>24 Jamie's on vacation.</p> <p>25 MR. LEMBERG: Well, I'm not on vacation. I'm</p>

<p>1 here for work. I paid for this ticket to come here. 2 I left my family at home, and I came here to depose 3 this witness who doesn't know what a CSV file is. 4 MR. O'CONNOR: Well, I think you have to finish 5 up with her, and if you think you're entitled to 6 more testimony, then we'll talk about it and resolve 7 it on another day. 8 The judge can't order me to produce a witness 9 who's on vacation, Sergei. Do you understand? 10 MR. LEMBERG: No, I don't. I was told that the 11 witnesses would be here to testify. That's why I'm 12 here. And I come here and the witness is on 13 vacation. 14 Let's take a quick break. I'll get the phone 15 numbers and we'll call the judges. 16 (Brief recess.) 17 BY MR. LEMBERG: 18 Q So I think we'll give it another shot and see 19 where we go. So Jamie uploads the -- Jamie creates the 20 file on his computer, right? 21 A Yes. 22 Q And then transmits the file to LiveVox, 23 correct? 24 A Correct. 25 Q And how does he transmit the file to LiveVox?</p>	<p>Page 66</p> <p>1 Q Can you estimate? 2 A No, it would not be accurate in any way. 3 Q Can we say it's a lot? 4 A Everybody has a different def- -- I'm not 5 trying to be difficult, but everybody has a different 6 definition of a lot. I know it's more than one or five 7 or ten numbers, but I'm not sure exactly how many numbers 8 are uploaded in each campaign. I wouldn't even be able 9 to give you a specific guesstimate even. 10 Q Do you know who -- do you know a gentleman by 11 the name of -- 12 (Cell phone rings.) 13 MR. LEMBERG: Jack, this is the court calling. 14 (Off-the-record discussion.) 15 BY MR. LEMBERG: 16 Q Do you know a gentleman by the name of Gordon 17 Beck? 18 A Yes, I do. 19 MR. LEMBERG: I'll mark what the -- I'll mark 20 this as Plaintiffs' -- 21 THE REPORTER: 9. 22 MR. LEMBERG: -- Plaintiffs' 9. 23 (Plaintiffs' Exhibit No. 9 marked for identification.) 24 BY MR. LEMBERG: 25 Q Would you please take a look at Plaintiffs' 9,</p>
<p>1 A Electronically. 2 Q Using what process, using what electronic 3 process? 4 A I don't know the name of it. 5 Q If I told you he uses FTP, would that -- 6 A File transfer protocol -- 7 Q Yes. 8 A -- most likely, yes. 9 Q And that is probably done on the Internet, 10 right? 11 A Yes. 12 Q So he creates the file, transmits it on the 13 Internet to LiveVox, right? 14 A Yes. 15 Q And the file, the daily file has more than one 16 number, correct? 17 A Yes. 18 Q More than a hundred? 19 A It depends on the file. It depends on the 20 files. He doesn't just do one file a day. 21 Q He does multiple files a day? 22 A Yes. 23 Q Some of them have a hundred numbers in them? 24 A I don't know how many numbers are in each 25 file.</p>	<p>Page 67</p> <p>1 and specifically at the section of this article called 2 "What technology do we use most and why" on the second 3 page, and then I'll ask you some questions. 4 A Okay. 5 Q You ready? 6 A Sure. 7 Q Who is Mr. Beck? 8 A He is the COO for Diversified Consultants, 9 Incorporated. 10 Q And does this article appear to be an article 11 that is based on an interview with him? 12 A Yes. 13 Q In which he's talking about the company 14 Diversified Consultants, correct? 15 A Correct. 16 Q Now, the section "What technology do we use and 17 why," you've just reviewed that section, correct? 18 A Yes. 19 Q The first sentence says, "Our hosted dialing 20 solution and our skip trace process are vital 21 technological platforms that are of utmost importance in 22 liquidating telecom accounts at a high level." Do you 23 have any disagreement with that sentence? 24 MR. O'CONNOR: Objection to the form. 25 Answer if you can, Mavis.</p>

<p style="text-align: right;">Page 70</p> <p>1 THE WITNESS: I don't see a reason why I would 2 disagree with it.</p> <p>3 BY MR. LEMBERG:</p> <p>4 Q The second sentence -- the second sentence 5 says, "LiveVox is currently DCI's hosted solution where 6 we connect with them via VoIP for cost efficiency." Is 7 that accurate?</p> <p>8 A We do use LiveVox as our hosted solution via 9 voice over IP.</p> <p>10 Q Because telecom comes with high volume and 11 low-average balance, you need to make millions of phone 12 calls a day, sometimes we could do -- something we could 13 not do when operating through a premise-based system.</p> <p>14 Any disagreement with that?</p> <p>15 MR. O'CONNOR: Objection to form.</p> <p>16 THE WITNESS: I do disagree with this.</p> <p>17 BY MR. LEMBERG:</p> <p>18 Q Okay. Well, tell me why you disagree with 19 this.</p> <p>20 A Because it says you need the ability to make 21 millions of phone calls a day.</p> <p>22 Q Okay.</p> <p>23 A I think you said you need to make millions -- 24 you know.</p> <p>25 Q Does that -- does that sentence mean to you</p>	<p style="text-align: right;">Page 72</p> <p>1 A Yeah.</p> <p>2 Q Okay. Now -- and they have a large number of 3 phone numbers, correct?</p> <p>4 A I don't know how big the files are.</p> <p>5 Q I'm not asking you to tell me how big the files 6 are. I'm asking you to confirm that the files contain a 7 large number of phone numbers.</p> <p>8 A I can't confirm that because I don't build 9 them. So I don't know if he's putting a hundred in each 10 one or if he's building thousands and thousands --</p> <p>11 Q In order to make millions of phone calls a day, 12 how many numbers would you need to load into the system 13 to make a million phone calls?</p> <p>14 A How many numbers would you need to load in the 15 system to make --</p> <p>16 MR. LEMBERG: I move to strike as 17 nonresponsive.</p> <p>18 BY MR. LEMBERG:</p> <p>19 Q Can you tell me how many numbers on average are 20 downloaded into the LiveVox dialer by Diversified 21 Consultants?</p> <p>22 A No.</p> <p>23 Q Can you tell me how many numbers were 24 downloaded by -- by Diversified Consultants into LiveVox 25 yesterday?</p>
<p style="text-align: right;">Page 71</p> <p>1 that Diversified Consultants makes millions of phone 2 calls a day?</p> <p>3 A No, it means we have the ability to make 4 millions of phone calls a day.</p> <p>5 Q Okay. You need the ability to make millions of 6 phone calls a day, right?</p> <p>7 A Correct.</p> <p>8 Q And so in order to make millions of phone calls 9 a day, is it fair to say that Jamie would have to 10 download some number that is -- download some large 11 number of phone numbers into the dialer so that it could 12 make those phone calls?</p> <p>13 A He would have to upload a large number of files 14 or large groups of files.</p> <p>15 Q Right. And those groups of files, individual 16 files have phone numbers in them, correct?</p> <p>17 A I'm not sure if they have phone numbers or 18 account numbers, or -- and that's --</p> <p>19 Q Hold on.</p> <p>20 A I'm not sure on -- okay. Let me --</p> <p>21 Q In order for the dialer to dial, what is it 22 dialing? It's not dialing account numbers.</p> <p>23 A No, it's dialing a phone number.</p> <p>24 Q Right. So the files have phone numbers, 25 right?</p>	<p style="text-align: right;">Page 73</p> <p>1 A No.</p> <p>2 Q Can you estimate how many numbers are loaded 3 into the LiveVox dialer on a daily basis?</p> <p>4 A Can I estimate?</p> <p>5 Q Yes.</p> <p>6 A It would be more of a guesstimate, but ...</p> <p>7 Q Tell me.</p> <p>8 A I'd say over a million.</p> <p>9 Q On a daily basis?</p> <p>10 A It's a guesstimation, but yes.</p> <p>11 Q What's the over/under on that? It could be off 12 by 200,000s.</p> <p>13 A I mean, it could be off -- it could be off by 14 millions. I don't know.</p> <p>15 Q But in order to make millions of phone calls a 16 day, you need some number that's more than --</p> <p>17 A One.</p> <p>18 Q Well, your system doesn't -- I mean, let's be 19 realistic. It's some number above 100,000, right?</p> <p>20 MR. O'CONNOR: Objection to the form.</p> <p>21 THE WITNESS: To make phone calls -- to make 22 millions of phone calls a day --</p> <p>23 BY MR. LEMBERG:</p> <p>24 Q Right.</p> <p>25 A -- if we're making millions of phone calls a</p>

<p style="text-align: right;">Page 74</p> <p>1 day, you're going to have to dial a million phone 2 numbers.</p> <p>3 Q Okay. Now, those phone numbers are contained 4 within the files that are uploaded to LiveVox, correct?</p> <p>5 A I -- yes.</p> <p>6 Q Now, since LiveVox is a computer -- okay. Let 7 me ask you a question. Let the record reflect that I am 8 holding a cup of coffee in my hand and I'm asking the 9 witness to look at the cup of coffee and answer my 10 question, and the question is as follows: Does this cup 11 of coffee have the capacity to store the coffee that is 12 in it?</p> <p>13 A Yes.</p> <p>14 Q Because if it didn't store it, there would be a 15 hole and it would be coming out on the other end, 16 right?</p> <p>17 A Correct.</p> <p>18 Q Now, the numbers that are downloaded into the 19 LiveVox -- uploaded, rather, into the LiveVox dialer by 20 Jamie, they sit there in that dialer, correct, until they 21 are dialed?</p> <p>22 MR. O'CONNOR: Objection to the form.</p> <p>23 THE WITNESS: I don't know.</p> <p>24 BY MR. LEMBERG:</p> <p>25 Q Is the LiveVox dialer like the cup of coffee</p>	<p>1 he uploads them to has to store them, doesn't it?</p> <p>2 A I don't know if it takes that long to upload 3 them. I think that's why he gets up early.</p> <p>4 Q Right. He uploads them quickly. It's FTP, he 5 uploads them quickly.</p> <p>6 A No.</p> <p>7 Q But then once they're uploaded --</p> <p>8 A He starts building the campaigns at 5:00 a.m. 9 It doesn't mean that they're going to be ready to be 10 uploaded right away.</p> <p>11 Q Okay.</p> <p>12 A I mean, you've got criteria. You've got to run 13 searches.</p> <p>14 Q Okay.</p> <p>15 A It's not something to be done --</p> <p>16 Q Supposed they're uploaded at 7:00 a.m. -- 17 suppose they're uploaded at 8:00 a.m. They're not all 18 dialed at 8:00 a.m., correct?</p> <p>19 A Correct.</p> <p>20 Q They're dialed over a period of time, correct?</p> <p>21 A A couple minutes, a couple hours, I don't 22 know.</p> <p>23 Q The whole work day in fact.</p> <p>24 A I don't know. It's campaign dependent.</p> <p>25 Q Because the collectors are sitting there</p>
<p style="text-align: right;">Page 75</p> <p>1 that I am holding in my hand or is it like a cup of 2 coffee -- or is it -- does it not have a bottom? Is 3 it -- can it not keep the phone numbers?</p> <p>4 A It does not store the phone numbers.</p> <p>5 Q Does it store the phone numbers until they are 6 dialed?</p> <p>7 A I don't know. I don't know how that works.</p> <p>8 Q How could it dial the phone numbers if it 9 doesn't store them until they are dialed?</p> <p>10 A Because it could be pulling them from the 11 account. I -- I'm not sure on the technical side of it. 12 I'm not sure if the -- the account numbers are -- because 13 the systems are integrated --</p> <p>14 Q Uh-huh.</p> <p>15 A -- from my understanding. Maybe they're not, 16 because he has to upload the file. So I don't know.</p> <p>17 Q Right. He has to upload the file, right?</p> <p>18 A Yeah, so I don't know.</p> <p>19 Q In the morning, at 5 o'clock in the morning. 20 And phone calls don't start at 5 o'clock in the morning, 21 do they?</p> <p>22 A No.</p> <p>23 Q No. They start at 8:00, right?</p> <p>24 A Depends on the time zone.</p> <p>25 Q So from 5:00 to 8:00 at least, the system that</p>	<p>1 waiting for the phone calls to come in, right?</p> <p>2 A It's campaign dependent. It's dependent how 3 many --</p> <p>4 Q Agreed. But the numbers have to live on the 5 LiveVox system until they are dialed. Is that true or 6 false?</p> <p>7 A I -- I would --</p> <p>8 MR. O'CONNOR: Objection to the form. Sergei, 9 will you please let her give a compete answer before 10 you jump in.</p> <p>11 THE WITNESS: I don't know. I don't -- I can't 12 answer that 100 percent yes, that's correct or 100 13 percent wrong, because I don't know how it -- how 14 they're saved in the -- if they're saved in LiveVox 15 until they're called, or if they're saved in our 16 system and then LiveVox pulls them when they're 17 ready to dial. I don't know.</p> <p>18 BY MR. LEMBERG:</p> <p>19 Q Where would they be saved in your system?</p> <p>20 A On the FTP site.</p> <p>21 Q On what?</p> <p>22 A The FTP. On the site that we use for the FTP.</p> <p>23 Q Well -- so you don't know if the system stores 24 the numbers, do you?</p> <p>25 A I don't know.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q Jamie does, doesn't he not -- does he not? 2 A That's his job. 3 Q If I show you the LiveVox manual and you looked 4 at it, would it be the third -- the second or third time 5 that you've seen it? 6 A It would be more than -- 7 MR. O'CONNOR: Objection to the form. 8 THE WITNESS: It would be more than third or 9 fourth time. 10 BY MR. LEMBERG: 11 Q Okay. So you're familiar with it, then. 12 MR. LEMBERG: I'm to mark this as the next 13 exhibit, which is -- 14 THE REPORTER: 10. 15 MR. O'CONNOR: Number 10? 16 THE REPORTER: Yes, sir. 17 MR. O'CONNOR: Thank you. 18 (Plaintiffs' Exhibit No. 10 marked for identification.) 19 BY MR. LEMBERG: 20 Q I've placed before you what's been marked as 21 Plaintiffs' 10. Can you please tell me what this 22 document is? 23 A It's our supplemental responses to your first 24 request for production of documents. 25 Q And what are the supplemental responses?</p>	<p style="text-align: right;">Page 80</p> <p>1 topics. And you can click the link to go to uploading a 2 campaign. 3 Q So which -- which PA number? 4 A PA 32 is the start of it. 5 Q Why don't we go PA 31 instead. Would you 6 please read that section and tell me -- and then tell me 7 when you're ready. 8 A Okay. 9 Q Can you explain to me what this section 10 means? 11 A That means that we have the option to store 12 information or phone numbers into the system, LiveVox 13 system, for up to 30 days. 14 Q And they can reside there, the campaigns, for 15 up to 30 days, correct? 16 A At our choice. 17 Q And data reports exist beyond the 30-day limit, 18 correct? 19 A Data reports on how -- on what was done, yes. 20 Q But it seems to me that this PA 31 means that 21 the LiveVox dialer that -- for which this manual is the 22 manual has the capacity to retain the files for 30 -- for 23 up to 30 days, correct? 24 A It has the capacity to obtain -- retain them 25 for up to 30 days.</p>
<p style="text-align: right;">Page 79</p> <p>1 What -- what are the documents that are being produced? 2 A I would have to look through it and see all of 3 the documents. The first one I see is the LiveVox 4 manual. It looks like this is just a LiveVox manual. 5 Q And what is the LiveVox manual? 6 A It is the how-to for us to run LiveVox. 7 Q Do you -- have you ever run LiveVox yourself? 8 A Thank God, no. 9 Q Under -- in what circumstances have you 10 familiarized yourself with this manual? 11 A Learning how to add user IDs, how to look up 12 certain calls, time ranges. 13 Q So am I correct that this is the manual that's 14 put out by LiveVox that tells you how to make use of the 15 system, "you" meaning DCI? 16 A Correct. 17 Q Now, can you point me in this manual to the 18 section that deals with how to upload the files to the 19 LiveVox system? 20 A Where's the -- where's part 1? It should have 21 a list of everything on it. Do you want not building a 22 campaign, but -- 23 Q I'm just talking about uploading. 24 A Section 5 starts off with uploading -- or 25 has -- starts off with campaigns, but it's got related</p>	<p style="text-align: right;">Page 81</p> <p>1 Q Okay. Now, what do the words "upload the 2 file" -- you pointed me to page 32. What do the words 3 "upload the file" mean? 4 A Uploading a campaign or file would be the 5 numbers we want to call, uploading it to the system. 6 Q So taking it from your system and moving it to 7 somebody else's, right? 8 A Yeah, or putting in the FTP and taking -- yeah. 9 Q All right. When the file is -- looking at page 10 PA 32, there's a heading called "Uploading a Campaign." 11 Can you explain to me how this process works looking at 12 this manual? 13 A If I took the time to read it, I would be able 14 to, yes. This is a step-by-step on how to upload a file, 15 yeah. 16 Q Right. So you take the file, you select it 17 from your system, correct? 18 A Right. 19 Q And then you upload it to their system, 20 right? 21 A Yeah. Well -- yeah. 22 Q And that's what Jamie does, does he not? 23 A Yeah. 24 Q And then the file, then, is -- sits on their 25 system until the numbers are dialed, correct?</p>

<p>1 A Or until it expires based on the shelf life 2 that we've preassigned.</p> <p>3 Q Right. And right at the bottom here it talks 4 about archiving. And it says, "Completed and reported 5 files older than the current date are archived; these 6 files will only be displaced until their shelf life 7 expires." Do you see that?</p> <p>8 A Yes, I do.</p> <p>9 Q So the -- the LiveVox system has the capacity 10 to archive these files, does it not?</p> <p>11 A Yes.</p> <p>12 Q And when I -- when it says "archive," that 13 means retain on the system, correct?</p> <p>14 A Archive is retain old information that's not 15 usable. It's like --</p> <p>16 Q Is it any different than the library, for 17 instance? You can have a book and an archive. You can 18 have a file here and an archive, right?</p> <p>19 A Here's -- here's how I would describe it: You 20 have a child. The child outgrows a pair of shoes, but 21 you save them. You get them bronzed. They're now 22 archived. They're not something you're going to use 23 every day anymore. They're something your child's never 24 going to wear again. No child will ever wear them 25 again.</p>	<p>Page 82</p> <p>1 uploading to what is already on the system, correct?</p> <p>2 A I -- I'm not getting that from that, no.</p> <p>3 Q Please turn to page 35. Do you see where it 4 says "Duplicate File Check"?</p> <p>5 A I do.</p> <p>6 Q "Files loaded are checked against files already 7 loaded to check if the name or content of any campaign 8 files are duplicated." Do you see that?</p> <p>9 A Yes, I do.</p> <p>10 Q So this means the system has the capacity to 11 check against other files that are residing on the server 12 already for name and content?</p> <p>13 A Okay.</p> <p>14 MR. O'CONNOR: Objection.</p> <p>15 BY MR. LEMBERG:</p> <p>16 Q True?</p> <p>17 A It says so, yeah.</p> <p>18 Q Turning page to PA 36, the first bullet point: 19 "Once the files are uploaded, they will appear on the -- 20 under the uploads folder as seen on the screen below." 21 Do you see that?</p> <p>22 A Yes, I do.</p> <p>23 Q So what this means to me is that the -- the 24 files, once uploaded, reside on the LiveVox system. Does 25 that mean the same thing to you?</p>
<p>1 Q Right. But they're still in your house?</p> <p>2 A Yeah.</p> <p>3 Q So same thing here, these files are archived on 4 the LiveVox system, correct?</p> <p>5 MR. O'CONNOR: Objection to the form.</p> <p>6 THE WITNESS: To my understanding, yes.</p> <p>7 BY MR. LEMBERG:</p> <p>8 Q Now, flipping over to PA 33. Right there at 9 the bottom there's a line that says, "When uploading a 10 new file, the campaign manager will check to see if the 11 previous file has been fully processed. User will get an 12 alert, 'Please try again in a few minutes. The filename 13 is being processed. Thank you,' if the file has not been 14 fully processed and a save has been attempted." Do you 15 see that line?</p> <p>16 A Yes, I do.</p> <p>17 Q Does that line not mean to you that the LiveVox 18 system is capable of checking the new file against the 19 previously uploaded file to see if they're the same 20 thing?</p> <p>21 A Hang on. Let me read this. Well, it doesn't 22 necessarily mean it's an archive file. It could just be 23 if you've uploaded more than one file that day, the other 24 one is still processing.</p> <p>25 Q But it has the ability to compare what you are</p>	<p>Page 83</p> <p>1 A They're on the system, yes.</p> <p>2 Q And in fact, if -- if today is like any other 3 day, there's probably a screen like this that reflects 4 today's files, wouldn't there be?</p> <p>5 A Yes.</p> <p>6 MR. LEMBERG: I'm going to call for the 7 production of that screen for -- as of 2:30 p.m. 8 Eastern Standard Time today.</p> <p>9 BY MR. LEMBERG:</p> <p>10 Q Now, once the file is -- I'm going to turn to 11 page 38 now. For the file that is uploaded, you can 12 create -- you can create campaigns from the files that 13 are uploaded, correct?</p> <p>14 A Yes.</p> <p>15 Q And the campaigns allow you to customize the 16 voice of the person leaving a message, correct?</p> <p>17 A If you leave messages, yes.</p> <p>18 Q And the time of the calls, correct?</p> <p>19 A I'm sorry, the what?</p> <p>20 Q And the time when the calls are made, 21 correct?</p> <p>22 A I don't see that on here, but --</p> <p>23 Q Well, it's on the next page.</p> <p>24 A Yes.</p> <p>25 Q And on the next page it allows you to customize</p>

<p style="text-align: right;">Page 86</p> <p>1 the dialing strategy for the particular campaign, 2 correct?</p> <p>3 A Are you on page 40 now?</p> <p>4 Q Oh, yes.</p> <p>5 A Campaign will start dialing, campaign will end, 6 the days, recur, end of day. What was your question?</p> <p>7 Q It allows you to customize the dialing 8 strategy, correct?</p> <p>9 A Yes.</p> <p>10 Q Now, it also allows you to check against a 11 national database for cell phones, does it not?</p> <p>12 A Yes, it does.</p> <p>13 Q Does Diversified Consultants check against a 14 national database for cell phones and -- to determine 15 whether a particular number is or is not a cell phone?</p> <p>16 A Yes, we do.</p> <p>17 Q And then how would you explain that both Mavis 18 and Davis received calls using the LiveVox system on 19 their cell phones?</p> <p>20 MR. O'CONNOR: Objection to the form.</p> <p>21 THE WITNESS: I don't know. Maybe their 22 numbers weren't on that list.</p> <p>23 BY MR. LEMBERG:</p> <p>24 Q And what is the national database for cell 25 phones? Do you know what it's called?</p>	<p style="text-align: right;">Page 88</p> <p>1 numbers. It just says dial at your own whim. What will 2 the system do?</p> <p>3 A I don't know if it will.</p> <p>4 MR. O'CONNOR: Objection to the form.</p> <p>5 BY MR. LEMBERG:</p> <p>6 Q If Jamie doesn't tell the system how to dial, 7 how will the system dial?</p> <p>8 A I do not know.</p> <p>9 Q Ah. Well, if you don't know, would you please 10 look at page PA 64. At the very bottom it will tell you 11 the answer.</p> <p>12 A Okay.</p> <p>13 Q And so what is the answer to my question?</p> <p>14 A That LiveVox will use their standard 15 procedure.</p> <p>16 Q And their standard procedure is to do what?</p> <p>17 A To dial the phone numbers, one, two -- from one 18 phone, two and three and so on, that's in the file.</p> <p>19 Q And that is called what -- dialing how? That's 20 called dialing sequentially, is it not?</p> <p>21 A It's worded "sequentially," yes.</p> <p>22 Q So the standard default option for the LiveVox 23 system Diversified uses --</p> <p>24 A No.</p> <p>25 Q -- is to dial sequentially unless there is</p>
<p style="text-align: right;">Page 87</p> <p>1 A No, I don't. We use two different systems. I 2 don't know.</p> <p>3 Q Now, building a campaign allows Diversified to 4 include different messaging and different calling 5 strategies, correct?</p> <p>6 A Yes, it does.</p> <p>7 Q And it allows Diversified to determine how the 8 phone calls will be made by the LiveVox system, does it 9 not?</p> <p>10 A I'm sorry, one more time.</p> <p>11 Q Well, how does LiveVox decide how to dial the 12 numbers?</p> <p>13 A Based on the information that Jamie has 14 established.</p> <p>15 Q So Jamie has to tell LiveVox, hey, call these 16 numbers one after another or call them -- the first batch 17 at 10:00 a.m., the second batch at 11:00 p.m. or call 18 some with one number -- with one message and others with 19 another. That's Jamie's job, right?</p> <p>20 A Right.</p> <p>21 Q Now, what if Jamie doesn't tell the system 22 to -- how to call the numbers, what will it do?</p> <p>23 A Then there's not going to be any campaigns.</p> <p>24 Q Well, let's just imagine Jamie has a -- Jamie 25 uploads a campaign and it doesn't tell it how to dial the</p>	<p style="text-align: right;">Page 89</p> <p>1 another specification for how dialing is to be done; true 2 or false?</p> <p>3 A False, because we don't use their standard.</p> <p>4 MR. O'CONNOR: Objection to the form.</p> <p>5 BY MR. LEMBERG:</p> <p>6 Q But their standard is to dial sequentially; 7 true or false?</p> <p>8 MR. O'CONNOR: Objection to the form.</p> <p>9 THE WITNESS: LiveVox has a standard of dialing 10 sequentially. Diversified Consultants does not use 11 their standard.</p> <p>12 BY MR. LEMBERG:</p> <p>13 Q Diversified Consultants use -- uses a different 14 strategy for how it assigns when phone calls are made, 15 correct?</p> <p>16 A Correct.</p> <p>17 Q But the LiveVox system has the capacity to dial 18 sequentially, does it not?</p> <p>19 A I guess, yeah.</p> <p>20 Q Is that yes?</p> <p>21 A Yes.</p> <p>22 Q In fact, that's their default option, is it 23 not?</p> <p>24 A Correct.</p> <p>25 Q Are you familiar with the term "preview</p>

<p>1 dialing"?</p> <p>2 A Yes.</p> <p>3 Q What is preview dialing?</p> <p>4 A That is very similar to manual dialing. It's</p> <p>5 the same thing in my eyes. It's -- it's a box will come</p> <p>6 up and ask you would you like to dial this number and it</p> <p>7 will dial it. The only difference is the collector is</p> <p>8 not typing the number in to dial.</p> <p>9 Q So -- and that's -- that's how the LiveVox</p> <p>10 system works, right?</p> <p>11 A On some of their campaigns.</p> <p>12 Q So a number pops up for the agent, the agent</p> <p>13 clicks call, LiveVox dials, that's basically how it</p> <p>14 works?</p> <p>15 A It can be ran that way, yes.</p> <p>16 Q What -- what are the other ways to do it?</p> <p>17 A Or the consumer -- the call connects, and their</p> <p>18 collector has a beep in their ear and the consumer is on</p> <p>19 the line.</p> <p>20 Q Did you see either from Mavis or Davis, in the</p> <p>21 notes, that any of the calls were preview dials?</p> <p>22 A I honest -- I don't know from the account</p> <p>23 history. I'd have to look at the notes, the recording</p> <p>24 logs, but I'm not sure I can recognize that. I wouldn't</p> <p>25 be able to recognize it. It would be listed under the</p>	Page 90	<p>1 actually storing are two very different things.</p> <p>2 BY MR. LEMBERG:</p> <p>3 Q You just said that you don't have -- can you</p> <p>4 just repeat that again for me? What is your basis for</p> <p>5 thinking that you don't -- that Diversified does not have</p> <p>6 an ATDS?</p> <p>7 A It does not have the ability to dial random and</p> <p>8 sequential numbers. It does have the ability for</p> <p>9 sequential, but not random based on what you just showed</p> <p>10 me.</p> <p>11 Q Okay. So that's the reason you think that</p> <p>12 Diversified does not have an ATDS, correct?</p> <p>13 A Correct.</p> <p>14 Q The first thing is out the window, I think,</p> <p>15 because I just showed you in the manual where it said</p> <p>16 that it can dial sequentially.</p> <p>17 A Sequentially, correct.</p> <p>18 Q Correct. So it has that ability. That's not</p> <p>19 accurate anymore, right?</p> <p>20 A Correct.</p> <p>21 MR. O'CONNOR: Objection to the form.</p> <p>22 Sergei, you've asked questions about this topic</p> <p>23 three times; she's answered them three times. This</p> <p>24 is harassment. Please move to a different topic.</p> <p>25 BY MR. LEMBERG:</p>	Page 92
<p>1 skill, and I'm not -- I'm not sure.</p> <p>2 Q Now, I believe you had told me that -- and</p> <p>3 correct me if I'm wrong, that -- that Diversified does</p> <p>4 not believe that it has an ATSD or a dialer. Am I</p> <p>5 correct?</p> <p>6 A We do not have an ATDS.</p> <p>7 Q And why is that?</p> <p>8 A Because it does not have the ability to dial</p> <p>9 random and sequential numbers.</p> <p>10 Q Any other reason?</p> <p>11 MR. O'CONNOR: Objection to the form.</p> <p>12 THE WITNESS: I'm not sure.</p> <p>13 BY MR. LEMBERG:</p> <p>14 Q What do you mean you're not sure?</p> <p>15 A We don't store numbers. We have case law -- or</p> <p>16 we have case -- John O'Connor, that's what I refer to. I</p> <p>17 don't -- I don't know.</p> <p>18 Q We just went over the storing of the numbers.</p> <p>19 A Correct.</p> <p>20 Q I think we have to put that aside because we</p> <p>21 now know that the LiveVox system allows you not only to</p> <p>22 store, but it also allows you to archive, correct?</p> <p>23 A Having the ability --</p> <p>24 MR. O'CONNOR: Objection to the form.</p> <p>25 THE WITNESS: Having the ability to store and</p>	Page 91	<p>1 The next question I have for you is: What does</p> <p>2 it mean to dial randomly?</p> <p>3 A To randomly punch in numbers and hope to</p> <p>4 connect with somebody.</p> <p>5 Q Random numbers out of the blue?</p> <p>6 A Correct.</p> <p>7 Q And your position now is that your system is</p> <p>8 not an ATSD because it cannot just randomly generate</p> <p>9 numbers and call people?</p> <p>10 A It is not an ATDS because it does not have the</p> <p>11 ability to randomly dial numbers.</p> <p>12 Q And by that, you mean literally taking numbers</p> <p>13 out of the blue, like one, two, three, four, five, six,</p> <p>14 seven?</p> <p>15 A Yeah.</p> <p>16 Q Now, how do you know that?</p> <p>17 A Because we've asked LiveVox.</p> <p>18 Q Who is "we"?</p> <p>19 A Diversified Consultants, Incorporated.</p> <p>20 Q Did you ask LiveVox?</p> <p>21 A I asked Gordon and I asked Jamie, and they both</p> <p>22 went to LiveVox and asked them.</p> <p>23 Q And LiveVox told you that they can't dial</p> <p>24 numbers randomly?</p> <p>25 A Correct.</p>	Page 93

<p style="text-align: right;">Page 94</p> <p>1 Q They have to have actual numbers of actual 2 consumers to dial?</p> <p>3 A They have to have actual phone numbers provided 4 to them.</p> <p>5 Q Actual numbers provided to them.</p> <p>6 MR. LEMBERG: Okay. Now, let's take a quick 7 break, and I think we're going to head toward the 8 finishing line. Jack, five minutes?</p> <p>9 MR. O'CONNOR: That's fine.</p> <p>10 (Brief recess.)</p> <p>11 MR. LEMBERG: Jack, are you ready?</p> <p>12 MR. O'CONNOR: Ready whenever you are.</p> <p>13 MR. LEMBERG: I'd like to mark this as 14 Plaintiffs' -- a lot of exhibits today.</p> <p>15 THE REPORTER: 11.</p> <p>16 MR. LEMBERG: 11. I usually try to stay under 17 5. 18 (Plaintiffs' Exhibit No. 11 marked for identification.)</p> <p>19 BY MR. LEMBERG:</p> <p>20 Q Please tell me when you're ready.</p> <p>21 A I'm ready.</p> <p>22 Q Can you please identify this document for the 23 record?</p> <p>24 A It's the -- it's our response to your first set 25 of interrogatories.</p>	<p style="text-align: right;">Page 96</p> <p>1 Q And did you allow for your name to be used 2 under the penalties of perjury as a signature, an 3 electronic signature under the penalties of perjury?</p> <p>4 A After reviewing them, yes.</p> <p>5 Q And are these answers true and correct?</p> <p>6 A Yes, they are.</p> <p>7 Q And were they on January 14th, 2014?</p> <p>8 A To the best of my ability.</p> <p>9 Q And are they true and correct today?</p> <p>10 A To the best of my knowledge.</p> <p>11 Q Now, I'd like to ask you some questions about 12 some of these answers. Interrogatory number 4 says, 13 "Diversified uses" -- question: "Identify by name, 14 manufacturer, make, model and serial number all automatic 15 telephone dialing systems and/or equipment that you use, 16 including software that your system uses."</p> <p>17 Answer: "Diversified uses no automatic 18 telephone dialing system. It's dialing system is a 19 LiveVox product." See that?</p> <p>20 A Yes.</p> <p>21 Q What's the basis for that answer?</p> <p>22 A We don't have an ATDS, which is what you're 23 asking. And you asked us to answer what software, so we 24 use LiveVox.</p> <p>25 Q Question number 9 asks about obtaining -- "When</p>
<p style="text-align: right;">Page 95</p> <p>1 Q And the very last page of this response has a 2 signature, does it not? Well, the one before last. 3 There's S slash Mavis-Ann Kohn Pye. Do you see that?</p> <p>4 A I have a different copy than you. I've got 5 Nicholas Mavis.</p> <p>6 MR. O'CONNOR: Which case is the exhibit from?</p> <p>7 MR. LEMBERG: You have Mavis. Okay.</p> <p>8 THE WITNESS: Nicholas Mavis.</p> <p>9 MR. LEMBERG: Let the record reflect that 10 Plaintiffs' 10 is the -- the Diversified 11 Consultants, Inc.'s Answers to Plaintiff's First Set 12 of Interrogatories.</p> <p>13 THE REPORTER: Plaintiffs' 11.</p> <p>14 MR. O'CONNOR: In which case?</p> <p>15 MR. LEMBERG: Plaintiffs' 11. In the case of 16 Mavis versus Diversified Consultants.</p> <p>17 BY MR. LEMBERG:</p> <p>18 Q Now, that we've squared that away, the 19 penultimate page of that document does have your 20 signature, does it not?</p> <p>21 A It does.</p> <p>22 Q Did you write responses to these 23 interrogatories?</p> <p>24 A I provided the answers and our attorney 25 actually read them.</p>	<p style="text-align: right;">Page 97</p> <p>1 you obtain a person's telephone number other than 2 directly from the person, describe all steps you take to 3 determine the cell phone number, whether the number is a 4 cell phone number and whether the person gave prior 5 express consent."</p> <p>6 The answer you gave is that "All numbers are 7 subjected to the scrubbing process to check for cell 8 service and consent, among other things." Can you 9 describe the scrubbing process to me?</p> <p>10 A The main one that we use is -- I don't know the 11 name of the actual product, but we download -- I'm sorry. 12 It matches our files every night for cell phone numbers 13 to properly identify them and mark them as a cell phone 14 number versus a home or business.</p> <p>15 Q How do you do that, "you" meaning DCI?</p> <p>16 A We have our director of IT do it using Latitude 17 and the software that he found and purchased that's 18 updated regularly.</p> <p>19 Q What is the software?</p> <p>20 A I don't know what it's called. I just saw a 21 bill for it, and I don't remember what it's called.</p> <p>22 Q And how does it work; do you know?</p> <p>23 A It's a matching logic. And he helped develop 24 the Latitude software. So he's a programmer that can go 25 in there and create -- he created a program to match them</p>

<p>1 and identify them and mark them.</p> <p>2 Q Number 11 asks about consent to call number</p> <p>3 (413) 777-5348. Do you see that?</p> <p>4 A I do.</p> <p>5 Q And your answer is that "All information</p> <p>6 regarding calls by the company is included in the account</p> <p>7 records produced to the plaintiff."</p> <p>8 The question I have about this interrogatory</p> <p>9 answer combination is as follows: Would you please take</p> <p>10 a look at the documents that -- that have been marked --</p> <p>11 the Mavis records that are in front of you, and explain</p> <p>12 to me what in those records reflects Mavis' consent to be</p> <p>13 called on the 5348 number.</p> <p>14 MR. O'CONNOR: Object to the form. It's</p> <p>15 already been asked and answered.</p> <p>16 THE WITNESS: I don't see any in here to</p> <p>17 indicate that.</p> <p>18 BY MR. LEMBERG:</p> <p>19 Q So number 11 -- the answer to number 11 is not</p> <p>20 accurate, is it?</p> <p>21 MR. O'CONNOR: Objection to the form.</p> <p>22 THE WITNESS: Well, it says if you contend that</p> <p>23 they provided it as express consent. We're not</p> <p>24 stating whether or not they contended that in the --</p> <p>25 in the answer to that.</p>	<p>Page 98</p> <p>1 Q Would you like an opportunity to correct your</p> <p>2 answer to number 11?</p> <p>3 MR. O'CONNOR: Same instruction, Mavis.</p> <p>4 BY MR. LEMBERG:</p> <p>5 Q You will not answer my question?</p> <p>6 A I've been advised by my attorney not to answer</p> <p>7 your question.</p> <p>8 MR. O'CONNOR: Sergei, please stop harassing</p> <p>9 the witness. Move on to --</p> <p>10 MR. LEMBERG: I'm not harassing the witness,</p> <p>11 Jack. I'm asking her if she'd like to fix the</p> <p>12 answer. And the answer to that is yes or no.</p> <p>13 MR. O'CONNOR: There is no answer actually.</p> <p>14 Please stop harassing the witness. Move on to</p> <p>15 another topic.</p> <p>16 BY MR. LEMBERG:</p> <p>17 Q I'm going to ask you -- interrogatory number</p> <p>18 14: "Please state in detail the facts upon which you</p> <p>19 rely for each affirmative defense in your answer."</p> <p>20 I will help out and tell you that the</p> <p>21 affirmative defense of consent is what's being referenced</p> <p>22 here. And I'll ask you the following question: What</p> <p>23 facts do you have to show consent in this case, in the</p> <p>24 Mavis case?</p> <p>25 MR. O'CONNOR: Objection to the form. It's</p>
<p>1 BY MR. LEMBERG:</p> <p>2 Q There's nothing in the document that shows that</p> <p>3 he provided express -- in the documents that he -- that</p> <p>4 shows he provided express consent to be called at the</p> <p>5 5348 number, right?</p> <p>6 MR. O'CONNOR: Objection to the form.</p> <p>7 BY MR. LEMBERG:</p> <p>8 Q Nothing in the account history for his</p> <p>9 account?</p> <p>10 A Correct.</p> <p>11 Q Nothing in the dialer history for his</p> <p>12 account?</p> <p>13 A Not to my knowledge.</p> <p>14 Q Would you like an opportunity to correct your</p> <p>15 answer to number 11?</p> <p>16 MR. O'CONNOR: Objection.</p> <p>17 Don't answer that, Mavis.</p> <p>18 MR. LEMBERG: On what basis are you instructing</p> <p>19 the witness not to answer? Jack?</p> <p>20 MR. O'CONNOR: I heard you. Ask a proper</p> <p>21 question. Move on, please.</p> <p>22 MR. LEMBERG: I decline to accept your</p> <p>23 invitation to move on, and I will repeat my</p> <p>24 question.</p> <p>25 BY MR. LEMBERG:</p>	<p>Page 99</p> <p>1 been asked and answered. She already testified</p> <p>2 about the original agreement with -- with the</p> <p>3 creditor, Sergei.</p> <p>4 THE WITNESS: I've already answered this</p> <p>5 question.</p> <p>6 MR. LEMBERG: Jack, I think you're being</p> <p>7 disruptive. I don't appreciate that. I think -- I</p> <p>8 would personally like to -- to get home today, but</p> <p>9 if I need to, I can stay here until 5 o'clock and --</p> <p>10 and go over and over and over.</p> <p>11 MR. O'CONNOR: Actually, you can only stay to</p> <p>12 4:00, because that's when the witness is leaving.</p> <p>13 MR. LEMBERG: Not if we're not finished.</p> <p>14 BY MR. LEMBERG:</p> <p>15 Q Do you have -- would you now like to supplement</p> <p>16 this answer, answer to interrogatory number 14?</p> <p>17 MR. O'CONNOR: Objection, asked and answered.</p> <p>18 Don't answer it Mavis.</p> <p>19 MR. LEMBERG: Jack, I will -- you're -- you're</p> <p>20 forcing me to do what I really hate to do, which is</p> <p>21 to move for sanctions. I'm not asking any -- the</p> <p>22 only reasons in the federal rules to tell a witness</p> <p>23 not to answer is harassment or attorney-client</p> <p>24 privilege. I'm asking her questions that are not</p> <p>25 harassing, and there's absolutely nothing privileged</p>

<p>1 here. I'm asking her whether she'd like to 2 supplement this answer.</p> <p>3 MR. O'CONNOR: Sergei, please stop harassing 4 the witness by asking the same question multiple 5 times after you've gotten a good answer. Please 6 move to another topic.</p> <p>7 MR. LEMBERG: Okay. Then I'll move for 8 sanctions when I get home.</p> <p>9 BY MR. LEMBERG:</p> <p>10 Q Number 19, "Identify by name, position, address 11 and phone number all witnesses you propose to call at 12 trial." Do you know of anybody right now that you would 13 be calling for trial, at trial?</p> <p>14 A Myself, possibly Jamie Sullivan.</p> <p>15 Q Anybody else?</p> <p>16 A There's possible more. I couldn't tell you off 17 the top of my head.</p> <p>18 Q Finally, number 25. "Set forth the manner in 19 which you acquired phone number (413) 777-5348."</p> <p>20 Answer: "It was obtained through a company 21 inquiry." What is a company inquiry?</p> <p>22 A One is skip tracing searches that we run.</p> <p>23 Q So it's not your company, correct?</p> <p>24 A It's an inquiry that we ran through those 25 companies.</p>	<p>Page 102</p> <p>1 terminated or abandoned prior to being answered and 2 placed by you or anyone acting on your behalf or at your 3 direction."</p> <p>4 Answer: "No calls were made using an ATDS or 5 predictive dialer." Is that answer true and correct?</p> <p>6 A No calls were made using an ATDS.</p> <p>7 Q LiveVox is a predictive dialer, is it not?</p> <p>8 A I'm not sure if it's a predictive dialer. I 9 don't agree with the terminology. But according to -- 10 yeah.</p> <p>11 Q Now, please take a look at Exhibit No. 3.</p> <p>12 A Yep.</p> <p>13 Q Do you remember that exhibit?</p> <p>14 A I do.</p> <p>15 Q That's the exhibit that is a printout of DCI's 16 Web site.</p> <p>17 A Right.</p> <p>18 Q And it calls LiveVox "our predictive dialer."</p> <p>19 A Right.</p> <p>20 Q Okay. Now, with that information in mind, can 21 you please tell me whether the answer to interrogatory 22 number 5 is true and correct?</p> <p>23 MR. O'CONNOR: Objection to form. It's been 24 asked and answered.</p> <p>25 Answer if you can, Mavis.</p>
<p>1 Q Through a skip tracing company?</p> <p>2 A Through -- yes.</p> <p>3 Q And in this particular case, it's TransUnion, 4 correct?</p> <p>5 A I'd have to look, because they're both 6 different. Correct.</p> <p>7 Q So it's not your company and it's not your 8 client, correct?</p> <p>9 A TransUnion is not our company and is not our 10 client, correct.</p> <p>11 MR. LEMBERG: I'd like to mark as 12 the 12 interrogatory responses in the -- well, I don't have 13 another copy -- Mavis, Mavis. Okay. Mavis, Mavis, 14 Mavis. Davis. Okay. Then we're not going to mark 15 it as 12.</p> <p>16 BY MR. LEMBERG:</p> <p>17 Q In the Davis case, we served interrogatories on 18 Diversified Consultants just like we did in the Mavis 19 case. And I'll read you the interrogatory and I'll read 20 you the answer that was provided and signed by you.</p> <p>21 Question: "Identify the date, time and length 22 of each call placed to plaintiff's number that was dialed 23 using an ATDS and/or predictive dialer. This 24 interrogatory seeks information related to each and every 25 call, including calls that were not answered and/or</p>	<p>Page 103</p> <p>Page 105</p> <p>1 THE WITNESS: It's partially incorrect based on 2 information on our Web site, which has been 3 changed.</p> <p>4 BY MR. LEMBERG:</p> <p>5 Q The LiveVox is a predictive dialer, is it 6 not?</p> <p>7 MR. O'CONNOR: Objection to the form.</p> <p>8 THE WITNESS: LiveVox, according to what our 9 CEO -- or our COO wrote for our Web site, is a 10 predictive dialer.</p> <p>11 BY MR. LEMBERG:</p> <p>12 Q Interrogatory number 10 in the Davis case says: 13 "Describe and identify in detail each document in your 14 possession which contains plaintiff's number, included 15 but not limited to documents received from plaintiff 16 and/or obtained as a result of searching for contact 17 information regarding plaintiff."</p> <p>18 Answer: "Diversified obtained the number from 19 its client." And if you need to take a look at the 20 collection notes in the Davis case, you're welcome to do 21 it.</p> <p>22 The question I have is as follows: Is the 23 answer to interrogatory number 10 true and correct?</p> <p>24 A What was the phone number again?</p> <p>25 Q It's the 857 number.</p>

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1 A	There's more than one 857 number on here.	1 Q	Do you see -- have you ever seen -- does this
2 Q	The 857 number that ends with 8596.	2 appear to you to be a printout of Diversified's Web	3 site?
3 A	Without looking at the phone panel, I cannot	4 A	It does.
4	confirm or deny that. There's a possibility that it came	5 Q	And if you look on page 2 here, it says, and
5	back as a second -- for the second time as a skip trace	6 I'll read it into the record: "In addition, Diversified	7 Consultants partners with LiveVox for its dialing needs.
6	number, but --	8 LiveVox is the leading provider of predictive dialing	9 solutions to the collection industry." Do you see
7 Q	As you sit here today, can you -- looking at	10 that?	11
8	the account history for Davis and any other documents in	A I do.	12 Q What do you understand that sentence to mean?
9	front of you today that have been produced, can you tell	13 A They're the best company out there that you can	14 make your calls through.
10	me whether Diversified obtained (857) 312-8596 as a	15 Q Predictively dialed calls, right? Right?	16 A Yeah.
11	contact number from its client?	17 Q And that is in fact the dialer that DCI uses,	18 does it not?
12 A	I cannot.	19 MR. O'CONNOR: Objection to the form, asked and	20 answered many times.
13	MR. LEMBERG: If there are other documents that	21 THE WITNESS: I'm sorry --	22 BY MR. LEMBERG:
14	speak to this number being obtained from	23 Q With respect to this particular exhibit, the	24 exhibit that is in front of you is referring to the --
15	Diversified's client, I'm going to call for their	25 referring to the LiveVox dialer that Diversified uses,	
16	production.		
17	BY MR. LEMBERG:		
18 Q	You mentioned that the Web site was written by		
19 Diversified's CEO?			
20 A	No, the COO.		
21 Q	Oh, the COO. What is his name?		
22 A	Gordon Beck.		
23 Q	Ah. It's the same one. Okay. Did he write		
24 the entire Web site or just portions of it?			
25 A	He wrote portions of it.		
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1 Q	Who wrote what he didn't write?	1 correct?	
2 A	Probably the -- the firm we hired to -- to	2 MR. O'CONNOR: Objection to the form.	
3 develop it for us.		3 THE WITNESS: I'm sorry. Repeat your	
4	MR. LEMBERG: I'd like to mark this as 13.	4 question.	
5	THE REPORTER: We didn't mark a 12. It would	5 BY MR. LEMBERG:	
6 be 12.		6 Q Is the exhibit referring to the LiveVox system	
7	MR. LEMBERG: 12, that's fine.	7 that Diversified uses to make outbound phone calls?	
8	(Plaintiffs' Exhibit No. 12 marked for identification.)	8 A It's referring to the LiveVox software that	
9	BY MR. LEMBERG:	9 we've been discussing all day.	
10 Q	I've placed before the witness Exhibit 12,	10 Q Okay.	
11 which is a printout of -- taken on February 26th at 10:58		11 THE WITNESS: Can I take a break?	
12 a.m. of Diversified's Web site,		12 MR. O'CONNOR: Sure.	
13 dcicollect.com/DCI-technology.html.		13 MR. LEMBERG: Sure. You can take a break.	
14	MR. O'CONNOR: Can I ask a question about the	14 That's fine.	
15 exhibits?		15 (Brief recess.)	
16	MR. LEMBERG: Yes.	16 BY MR. LEMBERG:	
17	MR. O'CONNOR: Are the two sets of	17 Q You mentioned that the Web site had been	
18 interrogatory answers both 11?		18 written by the CEO, correct, and the company that -- that	
19	MR. LEMBERG: No. I marked Mavis as 11, and I	19 had been hired to do the Web site; am I correct?	
20 did not mark Davis because I do not have a copy.		20 A The COO.	
21	MR. O'CONNOR: Oh, okay. All right. Go ahead.	21 Q DCI CO -- OO?	
22 Sorry.		22 A Yes.	
23	BY MR. LEMBERG:	23 Q The answer's yes?	
24 Q	When you've read this document, please tell me.	24 A Yes.	
25 A	Okay.	25 Q And you mentioned that the Web site has been	

	Page 110		Page 112
1	changed, correct?	1	(Off-the-record discussion.)
2	A Correct.	2	MR. LEMBERG: Jack, do you want to waive
3	Q How did it come about that it was changed?	3	reading and signing?
4	A I reviewed it and told them I didn't like the	4	MR. O'CONNOR: No, we'd like to read and sign.
5	wording and asked them to change it.	5	(Off-the-record discussion.)
6	Q Why didn't you like the wording?	6	MR. LEMBERG: I leave the deposition open for
7	A I just -- I do that. Part of my job is to make	7	the witness named Jamie Sullivan to come here and
8	sure that everything we put out there is putting us at	8	explain how -- the methodology for operating the
9	lowest risk as possible.	9	system and uploading the numbers that DCI uses.
10	Q Did you tell them to change it by phone or	10	MR. O'CONNOR: Okay. As far -- as far as I'm
11	e-mail?	11	concerned, as I said, I'm happy to talk to counsel
12	A By e-mail.	12	about any discovery issues going forward, but DCI's
13	Q Did you have an exchange with him about	13	position is the deposition is concluded.
14	changing the Web site?	14	And we'd like a copy, please, Tanya, and a
15	A I've had numerous.	15	mini.
16	Q And what is his position?	16	(Witness excused)
17	A I -- what do you mean "what's his position"?	17	(The witness did not waive reading and signing, and
18	Q Did he want to change it? Did he not want to	18	the deposition concluded at 3:24 o'clock p.m.)
19	change it?	19	
20	A He approved all the changes I requested.	20	
21	Q And you said you've had numerous. Why did	21	
22	you -- what was the need for numerous exchanges?	22	
23	A There was an issue with our BBB logo. The	23	
24	information on our Sat 70 (phonetic) was not correct.	24	
25	Q What about this recent change, did it have to	25	
	Page 111		Page 113
1	do with the predictive dialer verbiage?	1	C E R T I F I C A T E O F O A T H
2	A Yes, part of it.	2	
3	Q Why didn't you like it?	3	
4	A Because it's leads to assumptions that we're	4	STATE OF FLORIDA)
5	using an ATDS or that we're violating the law, and we're	5	COUNTY OF DUVAL)
6	not.	6	
7	Q And on that topic, did you have an e-mail	7	
8	exchange with him?	8	I, the undersigned authority, certify that MAVIS-ANN
9	A On changing the verbiage?	9	PYE personally appeared before me and was duly sworn on
10	Q Yes.	10	Friday, February 28, 2014.
11	A Yes, "Gordon, I'd like to make these changes in	11	
12	the Web site."	12	WITNESS my hand and official seal this 4th day of
13	Q And what did he respond?	13	March 2014.
14	A Approved.	14	
15	MR. LEMBERG: I'd like to request all e-mails	15	
16	having to do with these changes to the Web site,	16	
17	with these specific changes, the most recent round.	17	
18	BY MR. LEMBERG:	18	
19	Q You're not suggesting that the information that	19	Tanya L. McCranie
20	had been there before was inaccurate?	20	Notary Public - State of Florida
21	A No.	21	Commission No.: FF 049175
22	MR. LEMBERG: I have nothing further.	22	Expires: October 26, 2017
23	MR. O'CONNOR: Okay. Nothing from me.	23	Personally known: Produced Identification: XX Type of Identification Produced: Florida Driver's License
24	MR. LEMBERG: Okay. Thank you very much.	24	
25	THE WITNESS: Thank you.	25	

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1 C E R T I F I C A T E		1 E R R A T A S H E E T	
2		2	
3 STATE OF FLORIDA)		3 Re: Mavis/Davis vs. Diversified Consultants	
4 COUNTY OF DUVAL)		Civil Action Nos.: 3:13-cv-30087-KPN 1:13-cv-10875-FDS	
5		4	
6 I, TANYA L. McCRAE, Registered Merit Reporter,		5 Page Line Where it reads: Should read:	
7 certify that I was authorized to and did stenographically		6 _____	
8 report the deposition of MAVIS-ANN PYE; that a review of		7 Reason: _____	
9 the transcript was requested; and that the transcript is		8 _____	
10 a true and complete record of my stenographic notes.		9 Reason: _____	
11 I further certify that I am not a relative,		10 _____	
12 employee, attorney, or counsel of any of the parties, nor		11 Reason: _____	
13 am I a relative or employee of any of the parties'		12 _____	
14 attorney or counsel connected with this action, nor am I		13 Reason: _____	
15 financially interested in the action.		14 _____	
16 DATED this 4th day of March 2014.		15 Reason: _____	
17		16 _____	
18		17 Reason: _____	
19 		18	
20 Tanya L. McCranie, RMR		19 Under penalties of perjury, I declare that I have	
21		20 read my deposition and that it is true and correct	
22		21 subject to any changes in form or substance entered here.	
23		22 _____	
24		23 _____	
25		24 DATE MAVIS-ANN PYE	
1		25 (TLM 02/28/14)	
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1 Riley Reporting & Associates, Inc.			
2 1660 Prudential Drive, Suite 210			
3 Jacksonville, Florida 32207			
4 (904) 358-1615 FAX (904) 356-5751			
5			
6 March 4, 2014			
7			
8 John J. O'Connor, Esquire			
9 Peabody & Arnold, LLP			
10 Federal Reserve Plaza			
11 600 Atlantic Avenue			
12 Boston, Massachusetts 02202			
13			
14 Re: Mavis/Davis vs. Diversified Consultants			
15			
16 Dear Mr. O'Connor:			
17			
18 Enclosed you will find your copy of the deposition of			
19 Mavis-Ann Pye taken on Friday, February 28, 2014, in the			
20 above-titled case. The errata sheet is enclosed for the			
21 reading and signing.			
22			
23 Please have Ms. Pye read the deposition, making any			
24 changes on the errata sheet, and return the original			
25 signed errata sheet to Mr. Lemberg. Your prompt			
26 attention to this matter is appreciated.			
27			
28			
29			
30 Tanya L. McCranie			
31 Court Reporter			
32			
33 Enclosure			
34 cc: Sergei Lemberg, Esquire			
35			

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